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THE CASE OF THE ALLEGIANCE DUE TO Soveraign Powers, STATED and RESOLVED, According to SCRIPTURE and REASON, AND THE Principles of the *Church of England*, WITH A more particular Reſpect to the OATH, lately enjoyned, of Allegiance to Their Preſent MAJESTIES, K. *WILLIAM* and Q. *MARY*.

By *WILLIAM SHERLOCK*, D. D.
Maſter of the TEMPLE.

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THE PREFACE.

I *Need not acquaint the World with the Occaſion of publiſhing this Book; which indeed is extorted from me by the rude Clamours and unchriſtian Cenſures of ſome, and the earneſt Importunities of others.*

My taking the Oath of Allegiance to King William *and Queen* Mary, *after ſo long a Refuſal, has occaſioned a great deal of talk, and a great many uncharitable gueſſes about it; Faction and blind Zeal always wanting either the Wit, or the good Will, to gueſs right.*

One would have thought it the moſt probable Conjecture, That a Man, who had forfeited all his Preferments by refuſing the Oath, and had for ever loſt them, had not the Government been more mild and gentle in delaying the Execution of the Law, acted very honeſtly and ſincerely in it; and if ſo, That there is alſo good Reaſon to believe, that if the ſame Perſon afterwards takes the Oath, he acts honeſtly in that too: for what Reaſon is there to ſuſpect, that he, who would not ſwear againſt the preſent perſwaſion of his Conſcience to keep his Preferments, ſhould ſwear againſt his Conſcience to get them again? I do not know, that I have given any juſt Occaſion to the World to mark me out for a Diſhoneſt Man, or a Fool; I may be miſtaken, and ſo may any Body elſe, though never ſo Wiſe and honeſt: But this I am ſure of, that I never acted

with more ſincerity in any Affair of my whole Life, than I have done in this Matter, from the beginning to the end; and whether I have ſufficient Reaſon for what I do, I refer to the trial of this Diſcourſe.

The truth is, though I refuſed to take the Oaths, I never engaged in any Faction againſt it: I never made it my Buſineſs to diſſwade Men from it: When my Opinion was asked, I declared my own Thoughts, but I never ſought out Men to make Proſelytes.

While I thought it an ill thing, I was ſecretly concerned, that ſome of my old intimate Friends had taken the Oaths; but yet as Opportunity ſerved, I converſed with thoſe of them, whoſe Zeal had not made their Converſation uneaſie, with the ſame Friendſhip and Freedom, that I uſed to do: I believed them to be honeſt Men, and that they acted honeſtly, according to the perſwaſion of their own Minds, and wiſhed that I could have done as they did. I complied with the Government, as far as I thought I could with a ſafe Conſcience: I always lived quietly and peaceably, and was ready to have given Security to do ſo. I prayed for King William *and Queen* Mary *by Name, according to the Apoſtles direction, to* pray for all that are in Authority, *which they viſibly were; though I knew at the ſame time, this highly offended ſome, who refuſed the Oaths, and made me ſtand, in a manner, ſingly by my ſelf.*

I always oppoſed a Separation, and adviſed not a few, who thought fit to conſult with me, to keep to the Communion of the Church; and not to entertain Prejudices againſt their Miniſters for taking the Oath: for I was ſenſible of the Evil and Miſchief of Schiſm, which ſome hot Men were then forward to promote, and are ſo ſtill; witneſs a late Pamphlet in Anſwer to The Reaſoning part of the Unreaſonableneſs of the New Separation, *which juſtifies a Schiſm now, upon ſuch Principles, as would have made all the* Jews *Sciſmaticks, when the High Prieſthood became Annual (though our Saviour himſelf then communicated with the* Jewiſh *Church) and makes the whole* Greek *Church Schiſmaticks, as often as the Grand Senior changes their Patriarch.*

For I did not refuſe the Oaths out of any fondneſs for the Government of King James, *nor zeal for his Return; which, the preſent proſpect of affairs gives no Man, who loves the Church of* England, *and the Liberties of his* Country, *any reaſon to wiſh: Nor yet out of any Averſion to the Government of King* William *and Queen* Mary: *but againſt my own Inclinations and Intereſt, out of pure Principles of Conſcience,*

to comply with the Obligations of my former Oaths, and that Duty which Subjects owe to their Prince, which I then apprehended irreconcileable with the new Oath.

This was a diſpoſition of Mind prepared to receive ſatisfaction, when ever it was offered; and to comply chearfully with the preſent Government, when ever I could do it with a ſafe Conſcience. I prayed heartily to God, that if I were in a miſtake, he would let me ſee it; that I might not forfeit the Exerciſe of my Miniſtry, for a meer miſtake: and I thank God, I have received that ſatisfaction which I deſired; and if any Man can ſhew me, that the Principles I act on are falſe, uncertain, or precarious, and ſuch as cannot reaſonably ſatisfie an honeſt and unbiaſſed Mind, I will confeſs, that my deſire of ſatisfaction has ſecretly and inſenſibly diſtorted my Judgment, though I took all poſſible care that it ſhould not.

I find, the general Cry and Expectation is, that I ſhould give my Reaſons; though why I ſhould be more obliged to give my Reaſons for Swearing, than I was for not Swearing, I cannot tell.

Some ſeem very fond of this, upon a preſumption that I can ſay nothing, but what they can eaſily Anſwer; and that will ſerve to expoſe Me, and the Cauſe together: I have for once gratified theſe Men, that they may have the opportunity to ſhew their skill.

Others, who are very well ſatisfied themſelves, have yet a Curioſity to know what ſatisfied me, who have been ſo long diſſatisfied. But this was no juſt Occaſion to write Reaſons; for if Reaſons were never ſo plentiful with me, I can hardly think it worth the while to write a Book to gratifie a meer Curioſity.

There are others, who are ſtill diſſatisfied about the Oaths, and are deſirous to try, Whether they can find that ſatisfaction, which I have done. This, I confeſs, is a good Reaſon, which may in Charity oblige me; and how hazardous an Attempt ſoever it be; my Duty to God, and to his Church, and to the Government, as well as Charity to my Brethren, ſeem to require it, when it is deſired, and exacted from me: and I hope ſuch Men will conſider too, what is their Duty, as they will anſwer it to God, and to their own Conſciences; to read what I have written for their ſakes, carefully, and with an honeſt Mind; and to judge impartially; and whatever the Effect be, to take it kindly.

But there is another Motive has prevailed with me, more than all the reſt: We live in an Age of great Prophaneneſs and Infidelity, which is ready to take all occaſions to reproach Religion, and expoſe it, as a Cheat and Impoſture, and to neglect no Opportunity to blacken the Clergy, as men of no Faith nor Religion themſelves, though they make a great noiſe about it to ſerve their own Intereſts: And the general compliance of the Clergy in taking this New Oath, hath been improved by men of this Spirit to very ill purpoſes: And not only ſo, but ſome very Devout Chriſtians have been greatly ſcandalized and offended at it: And others, who ſhould have underſtood better, and checked this ill Temper, which is of ſuch dangerous Conſequence to Religion in general, have given too much countenance to it, and have ſeemed too much pleaſed, to ſee and hear all the Clergy that have taken this Oath, expoſed to Contempt; as if, when the great Body of the Clergy is ridiculed and expoſed, the Credit of Religion could be ſupported only by ſome few men, who refuſe the Oath. Many of them indeed, to my knowledge, are very great and excellent Perſons, whom I do from my heart Honour and Reverence, and whom I hope, and heartily pray, God will reſtore again to the Miniſtry of his Church: Yet I ſhould be very ſorry (and ſo I am ſure, would they) that the Church and Religion ſhould be reduced ſo low, as to be confined to their numbers; and have no firmer bottom to reſt on than their Reputation, which though it be deſervedly great, cannot bear the whole weight of the Church and Religion.

It is time to give check to ſuch unchriſtian Cenſures, if we have any regard to our common Chriſtianity: And ſince ſome little Writers among them (who are too head ſtrong to be governed by wiſer men) engroſs the Church and Religion to themſelves; and repreſent all who have taken the Oaths, eſpecially the Clergy, as Apoſtates, at leaſt from the Church of England, *if not from the Chriſtian Faith; it is neceſſary to convince all ſober Chriſtians, that men may ſwear Allegiance to King* William *and Queen* Mary *without Perjury, and without renouncing any Principles of the Church of* England; *nay, that the Doctrine of the Church of* England *requires us to do ſo: And I hope, if this appear, their Zeal for the Church of* England, *if no other Conſideration can prevail with them, will oblige them alſo to do it.*

But it ſeems, it will not ſerve my turn to offer ſuch Reaſons, as will juſtifie my compliance now, unleſs I can give a good Reaſon, why I did not take the Oaths before; that is, I muſt give ſuch

Reaſons

Reaſons, as will equally prove, that no man ought to have taken the Oaths before, and that they ought to take them now.

Theſe are very hard Task-Maſters, and no doubt, have very kind Deſigns in it, to draw me in to provoke the Government by a needleſs juſtification of my ſelf, as to what is paſt; which can ſerve no other end, but a little Vain-glory, that I would not be thought capable of a miſtake; and leſt the Non-ſwearers ſhould not be Match enough for me, I muſt Proclaim War, and bid open Defiance to all that have taken this Oath; and prove, that they ought not to have ſworn before I did, but were obliged to do it the very next minute.

But what now, if nothing of all this be neceſſary? What if I was not ſo well ſatisfied about this matter before, as I am now? Is any man forbidden to grow wiſer, and upon a careful and thorough-examination of things, to alter his mind, when he ſees good reaſon for it? I am not aſhamed to own, that I am ſtill a Learner; and hope, I ſhall be ſo, as long as I live, and improve my Knowledge every day by Study and Converſation.

So that without producing the Reaſons of my diſſatisfaction before, or being obliged to anſwer them, having never made them Publick, I think it very fair to give a ſatisfactory Reaſon now, for my taking of this Oath; hoping, that what hath ſatisfied me, may have the ſame effect upon ſome others, that will have the patience impartially to conſider it.

I had indeed ſome of theſe Thoughts long ſince, which I drew up in Writing, and ſhewed to ſome of my Friends, and diſcourſed with others about them, and told them where I ſtuck: but ſtick I did, and could find no help for it; and there I had ſtuck to this day, had I not been relieved by Biſhop Overal's Convocation-Book, *which not only confirmed my former Notions, and ſuggeſted ſome new thoughts to me, which removed thoſe Difficulties, which I could not before Conquer; but alſo by the Venerable Authority of a Convocation, gave me greater freedom and liberty of thinking, which the apprehenſions of Novelty and Singularity had cramped before.*

Thus, Reader, I have made Thee my Confeſſor, and declared my whole Heart to Thee, as to this Matter; and now judge of me, as Thou wouldſt be judged by God another day.

I muſt add one thing more: That I have renounced no Principle that ever I taught, excepting one in The Caſe of Reſiſtance, *which is the only material Paſſage I know any reaſon to retract in that Book,* viz. *That when St.* Paul *ſays,* All power is of God, *he means only* P. 128, &c.

Legal

Legal Powers; but that in an Hereditary Monarchy, where the right Heir is living, Uſurped Powers are not of God, nor the Ordinance of God; as I proved by the Example of Joaſh: *The Reaſon and the Example you will find ſufficiently anſwered in the following Diſcourſe, and the Doctrine it ſelf rejected by the Convocation; though it has been of late years ſo prevailing a miſtake, and impoſed by ſuch great Authorities, that it is very pardonable, eſpecially when it is ſo freely acknowledged: Though the truth is, I think ſtill it is very true, as to the Caſe I then had in my Eye,* viz. *The Uſurpations of the Rump Parliament,* &c. *but the fault is, that it is too generally expreſſed.*

In managing this Argument upon the Principles I have laid down, it is neceſſary to reaſon upon the Suppoſition of unjuſt Uſurpations, and Illegal Revolutions of State; and it may be I may meet with ſome ſuch Readers, as may charge me for ſo doing with Reflecting upon the preſent Government, which I am very ſure, I am far from intending to do. And they who underſtand what belongs to Diſputes of this Nature, know very well that the ſhorteſt way to bring the matter to an iſſue, is to put the Caſe at the worſt that can be ſuppoſed; becauſe this gives ſo much the greater force and advantage to the Argument, when it is ſuited to thoſe, who are moſt ſtrongly prejudiced againſt the Legality of the late Revolution: For ſuppoſing, but not granting, them to be in the right in this matter, I doubt not to make it appear, that it is for all that their Duty to ſwear Allegiance to the preſent Government, when required ſo to do: And this being clearly proved, it becomes altogether needleſs to debate the Legality of the late Revolution.

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THE CASE OF THE ALLEGIANCE DUE TO Sovereign Powers, &c.

SECT. I.

The Case plainly and briefly stated.

THAT which has perplexed this Controverſie, is the intermixing the Diſpute of *Right* with the Duty of *Obedience*, or making the *Legal Right* of Princes to their Thrones the only Reaſon and Foundation of *the Allegiance* of Subjects: That Allegiance is due only to *Right*, not to *Government*, though it can be paid only to Government. Many of thoſe who have writ in defence of the New Oath, have ſuppoſed this, that a Legal Right is neceſſary to make Allegiance due, and therefore have endeavoured to juſtifie the Legal Right of Their preſent Majeſties: This as I have ſhewn it to be unneceſſary; ſo it ſeems to me to be unfit to diſpute the Right of Princes; a thing which no Government can permit to be a Queſtion among their Subjects: And how well ſoever ſuch Diſputes

may be intended, they are certainly needleſs in this Cauſe, and ſerve only to confound it, by carrying men into ſuch dark Labyrinths of Law and Hiſtory, *&c.* as very few know how to find their way out of again: And therefore I ſhall not meddle with this Diſpute, as being both above me, and nothing to my preſent purpoſe.

And on the other hand, thoſe alſo, who refuſe the New Oath, go wholly upon this Principle, That Allegiance is due only to a Legal Right. And take away that, and you remove all the difficulties they labour under. They think, that a rightful Prince only has Right to our Allegiance. That though he be diſpoſſeſſed of his Throne, if ever he had Right to it, he has Right ſtill; and therefore our Duty is ſtill owing to him, and to no other; and our Oaths of Allegiance to him ſtill bind us: and that no other Prince, who aſcends the Throne without a Legal Right, has Right to our Allegiance; and that to ſwear Allegiance to him, while we are under the Obligation of a former Oath to our rightful Prince, is Perjury.

As far as I know, this is the ſum of all that can be ſaid in this Cauſe: Allowing theſe Principles, there is no way to ſatisfie ſuch men, but by juſtifying the Legality of the late Revolution. But though many things are ſaid, which may make men much more modeſt in the point than ſome are; yet to judge truly of this requires ſuch perfect Skill in Law and Hiſtory, and the Conſtitution of the *Engliſh* Government, that few men are capable of making ſo plain and certain a judgment of it, as to be a clear and ſafe Rule of Conſcience.

But if the Principle be falſe, there is an end of the Diſpute: And Subjects have a plain Rule of Duty without underſtanding Laws and Politicks, the Intrigues of Government, the Revolutions of States, the Diſputes of Princes; which I am ſure is both for the ſecurity of Governments and Subjects.

If then Allegiance be due, not for the ſake of Legal Right, but Government.

If Allegiance be due, not to bare Legal Right, but to the Authority of God.

If God, when he ſees fit, and can better ſerve the ends of his Providence by it, ſets up Kings without any regard to Legal Right, or Humane Laws.

If Kings, thus ſet up by God, are inveſted with Gods Authority, which muſt be obeyed, not only for wrath, but alſo for conſcience ſake.

If theſe Principles be true, it is plain, that Subjects are bound to obey, and to pay and ſwear Allegiance (if it be required) to thoſe Princes whom God hath placed and ſettled in the Throne, whatever Diſputes there may be about their legal Right, when they are inveſted with God's Authority.

And then it is plain, that our old Allegiance and old Oaths are at an end, when God has ſet over us a new King: for when God transfers Kingdoms, and requires our Obedience and Allegiance to a new King, he neceſſarily transfers our Allegiance too.

This Scheme of Government may ſtartle ſome men at firſt, before they have well conſidered it. But every One at firſt ſight muſt acknowledge, that it is ſo much for the eaſe and ſafety of Subjects in all Revolutions (which very frequently happen) what the generality of Mankind, from an inward principle of Self preſervation, have always done, and will always do, that they have reaſon to wiſh it to be true, and to be glad to ſee it well proved.

And this I ſhall endeavour to do from the Authority of Scripture and Reaſon; and that I may not appear to be ſingular in it, and to advance Paradoxes, I ſhall prove it likewiſe from the Doctrine and Principles of the Church of *England*.

SECT. II.

The Doctrine of the Church of England *in this Point, as it is taught in Biſhop* Overal's *Convocation Book.*

I Shall begin with the Doctrine of the Church of *England*, not that I equal, much leſs prefer it, before the Scripture; but becauſe ſome, who refuſe the Oath, lay great ſtreſs on it, and upon this ſcore charge their Brethren with no leſs then Apoſtaſie from the Church; and poſſibly when ſuch a venerable Authority ſtands in the Front, it will prepare a kinder Reception for the Reaſons, which follow.

The Church of *England* has been very careful to instruct Her Children in their Duty to Princes; to obey their Laws, and submit to their Power, and not to resist, though very injuriously oppressed; and those, who renounce these Principles, renounce the Doctrine of the Church of *England*: But she has withal taught, That all Soveraign Princes receive their Power and Authority from God; and therefore every Prince, who is setled in the Throne, is to be obeyed and reverenced as God's Minister, and not to be resisted; which directs us what to do in all Revolutions of Government, when once they come to a Settlement; and those who refuse to pay and swear Allegiance to such Princes, whom God has placed in the Throne, whatever their legal right be, do as much reject the Doctrine of the Church of *England*, as those who teach the Resistance of Princes.

For the proof of which, I appeal to Bishop *Overal*'s Convocation Book, which contains the Acts and Canons of the Convocation begun in the first Year of King *James* I. 1603. and continued by Adjournments and Prorogations to 1610. under Archbishop *Bancroft*, a wise and learned man.

Page 57. In *Chapt.* 28. the Convocation having given an Account of the various and irregular Revolutions of Government, brought about by the Providence of God, "who for the sins of any Nation or Country, altereth their Governments and Governours, "transferreth, setteth up, and bestoweth Kingdoms, as it seemeth "best to his heavenly wisdom, they add these remarkable words; *And when having attained their ungodly desires (whether ambitious Kings, by bringing any Country into their Subjection; or disloyal Subjects, by their rebellious rising against their Natural Soveraigns) they have established any of the same degenerate Forms of Government among their People; the Authority either so unjustly gotten, or wrung by force from the true and lawful Possessor, being always God's Authority (and therefore receiving no Impeachment by the wickedness of those that have it) is ever (when any such Alterations are throughly settled) to be reverenced and obeyed, and the People of all sorts, (as well of the Clergy, as of the Laity) are to be subject unto it, not only for wrath, but also for conscience sake.*

Page 59. In *Can.* 28. where this Doctrine is decreed, they take care to condemn all those wicked means whereby such Changes of Governments are made, and yet to assert, That whenever such Changes are made, the Authority is Gods, and must be obeyed. "If any man therefore shall affirm, either that the Subjects, when "they

" they ſhake off the Yoke of their Obedience to their Soveraigns, " and ſet up a Form of Government among themſelves, after " their own Humours, do not therein very wickedly: or that it " is lawful for any bordering Kings, through Ambition and Ma- " lice, to invade their Neighbours: or that the Providence and " Goodneſs of God, in uſing of Rebellions and Oppreſſions againſt " any King or Country, doth mitigate or qualifie the Offences of " any ſuch Rebels or oppreſſing Kings: or that when any ſuch " new Forms of Government, begun by Rebellion, and after " throughly ſettled, the Authority in them is not of God: or that " any, who live within the Territories of ſuch new Governments, " are not bound to be ſubject to God's Authority, which is there " executed, but may rebel againſt the ſame: or that the *Jews* in " *Egypt* or *Babylon* might lawfully, for any Cauſe, have taken " Arms againſt any of thoſe Kings, or have offered any violence to " their Perſons, he doth greatly err.

Men may diſpute any thing, but I know not how it was poſſible for the Convocation to expreſs their ſenſe plainer, that all uſurped Powers, when throughly ſettled, have God's Authority, and muſt be obeyed: So that here are the Two great Points determined, whereon this whole Controverſie turns.

1. That thoſe Princes, who have no legal right to their Thrones, may yet have God's Authority.

2. That when they are throughly ſettled in their Thrones, they are inveſted with God's Authority, and muſt be reverenced and obeyed by all, who live within their Territories and Dominions, as well Prieſts, as People: If theſe Propoſitions be true, it is a plain Reſolution of the Caſe; that if it ſhould at any time happen, that the rightful Prince ſhould be driven out of his Kingdom, and another Prince placed in his Throne, and ſettled in the full Adminiſtration of Government, Subjects not only may, but muſt for conſcience ſake, and out of reverence to the Authority of God, with which ſuch a Prince is inveſted, pay all the Duty and Allegiance of Subjects to him.

As for the firſt, the Caſe is plain, that the Convocation ſpeaks of illegal and uſurped Powers, and yet affirms that the Authority exerciſed by them, is God's Authority, and therefore thoſe Princes, who have no legal right, may have God's Authority: the words of the Canon are very plain and expreſs, and yet if any man deſires further ſatisfaction, that this was the Judgment of the

the Convocation, that Princes, who have no Legal Right, may have God's Authority, it is very easie to give it.

Page 45. They teach, That *the Lord* (in advancing Kings to their Thrones) *is not bound to those Laws, which he prescribeth others to observe*, and therefore *commanded* Jehu *a Subject to be anointed King over* Israel, *of purpose to punish the sins of* Ahab *and* Jezebel: and what he did by Prophets in *Israel*, by an express Nomination of the Person, he does by his Providence in other Kingdoms, set up Kings when he sees fit, without any regard to the Right of

Page 53. Succession, or Legal Titles. For as they tell us elsewhere, *The Lord both may, and is able to overthrow any Kings or Emperors, notwithstanding any Claim, Right, Title, or Interest, which they can challenge to their Countries, Kingdoms, or Empires.*

The *Moabites* and *Aramites* never could have a Legal Right to the Government of *Israel*, and yet the Convocation asserts, That

Page 51. when *Israel* was in subjection to them, *they knew, that it was not lawful for them of themselves, and by their own Authority to take Arms against the Kings, whose Subjects they were, though indeed they were Tyrants.* And that it *had not been lawful for* Ehud *to have killed King* Eglon, *had he not been first made by God the Judge, Prince, and Ruler of the People.*

The like, we see, they teach of the Kings of *Egypt* and *Babylon*, who never had a Legal and Natural Right to Govern *Israel*; and the like they affirm of the *Four Monarchies*, which were all violent Usurpations; and the Principle they ground this on, plainly extends to all Kings and Soveraign Princes: That God, and his

Ch. 35. page 83. Son Jesus Christ, *who is the Universal Lord and Ruler over all the World*, does remove and set up Kings, as will best serve the Ends

Jer. 27. 5. of his wise Providence. *I have made (saith he) the Earth, the Man, and the Beasts that are upon the ground, and have given it to whom it pleaseth me. And again, the Prophet* Daniel *telleth us, That God changeth the Times and the Seasons, that he hath Power, and beareth*

4 Dan. 17. 32. *Rule over the Kingdoms of Men: that he taketh away Kings, and setteth up Kings; and that it was the God of Heaven, who gave unto*

2 Dan. 37. *Nebuchadnezzar so great a Kingdom, Power, Strength, and Glory, as then he had, to Rule with Majesty and Honour a very great Empire: in respect whereof, although Kings and Princes might have been satisfied with the Titles of Lieutenants, or Vicegerents on Earth, to the Son of God; yet he did communicate and impart so much of his Power, Authority, and Dignity unto them, as he was content to stile them with his own Name; I have said ye are Gods, and the Children of the*

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most High. And therefore we may obſerve, there is no Duty Subjects, as ſuch, owe to the moſt Legal and Rightful Kings, but the *Convocation* aſſerts due to all Kings, whom God hath placed in the Throne, by what viſible means ſoever they obtained it: as to obey and ſubmit to them, not to reſiſt them, nor rebel againſt them, to pay all Cuſtoms and Taxes, to pray for them, nay, to ſwear Allegiance to them, if it be required.

Thus they teach with reſpect to *Alexander* (and I think any Prince who gets the Throne, may pretend as much Right to it, as he). *If any Man therefore ſhall affirm, either that the Jews, generally, both Prieſts and People, were not the Subjects of* Alexander, *after his Authority was ſetled amongſt them, as they had been before the Subjects of the Kings of* Babylon *and* Perſia; *or that they might lawfully have born Arms againſt him; or that they were not all bound to pray for the long Life and Proſperity, both of* Alexander, *and his Empire, as they had been before to pray for the Life and Proſperity of the other ſaid Kings, and their Kingdoms, while they lived under their Subjection: or conſequently, that they might lawfully, upon any occaſion whatſoever, have offered Violence and Deſtruction, either to their Perſons, or to their Kingdoms, &c. he doth greatly err.* Can. 31. page 67.

Thus *Can.* 33. they teach, That whoever affirms, *That the Jews were not bound, both to have paid their Tribute, and to have prayed for* Cæſar *without diſſimulation, ſincerely and truly, notwithſtanding any pretence of Tyranny, which they had wilfully drawn upon their own heads, or of any cauſe whatſoever; or that ſuch as curſed* Cæſar, (*their chief Governour*) *did not thereby deſerve any corporal puniſhment, which is due to be inflicted upon ſuch Traitors; or that the Rebellion againſt Any King, Abſolute Prince, or Civil Magiſtrate, for any cauſe whatſoever, is not a ſin deteſtable in the ſight of God, &c. he doth greatly err.* Page 78.

Chapter 34. they condemn the *Phariſees*, who *when Herod upon occaſion cauſed his Subjects to bind themſelves by Oath, Quòd non deceſſuri eſſent à fide & officio, refuſed to take that Oath.* And in their 34th *Canon* they teach: That *if any Man affirm, That the Phariſees in refuſing to bind their Allegiance and Faith to* Cæſar, *by an Oath, did not thereby ſhew themſelves traiterouſly affected towards him* (which evidently is not true of all, who may refuſe ſuch Oath, but the intention is only to condemn ſuch a refuſal); *or that it was not a ſeditious Doctrine——To refuſe all Taxations impoſed by the* Romans, *their lawful Magiſtrates, and rather to rebel than to pay any Tribute to them, &c. he doth greatly err.* Page 79. Page 82.

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In the Caſe of *Jaddus* ſwearing Allegiance to *Darius*, they
Can. 30. condemn thoſe, who ſay, *That* Jaddus *the High-Prieſt did amiſs in*
page 65. *binding his Allegiance to* King Darius *by Oath, or that he had not ſinned, if he had refuſed (being thereunto required) to have ſworn.* And yet in the very next *Canon*, which I have already quoted, they teach, That both *Prieſts* and *People* (and therefore *Jaddus* himſelf) became as much the Subjects of *Alexander*, as they had been of *Darius*; and then according to this Doctrine, if *Alexander* had required an Oath of *Allegiance* from *Jaddus*, (as it is probable he did) *Jaddus* had ſinned, if he had refuſed that Oath, though according to all the Circumſtances of the Story, *Darius* was then living, to whom *Jaddus* had before ſworn Allegiance.

Page 64. But it will be objected againſt this, that the *Convocation* takes notice of that Anſwer *Jaddus* gave to *Alexander*, when he ſent to him from *Tyre*, after the Overthrow of *Darius*, *That he ſhould aſſiſt him in his Wars, and become Tributary to the* Macedonians, *as he had been to the* Perſians: *He returned for his Anſwer, That he might not yield to this, becauſe he had taken an Oath for his true Allegiance to* Darius, *which he might not lawfully violate, while* Darius *lived, being by flight eſcaped, when his Army was diſcomfited.* But we may
Page 65. obſerve, that the *Convocation* in their *Canon* upon it, takes no notice, that *Jaddus* having ſworn to *Darius*, could not ſubmit, or ſwear to any other Prince, while *Darius* lived; and it is plain, *Jaddus* himſelf did not mean this by it, for he immediately ſubmitted to *Alexander*, as ſoon as he came to *Jeruſalem*, before he had given the laſt fatal Overthrow to *Darius*, when *Darius* in his flight was murdered by his own Servants. The meaning then of *Jaddus*'s Anſwer to *Alexander*, was no more but this: That he having ſworn Allegiance to *Darius*, could not make a voluntary dedition of himſelf to *Alexander*, which was the thing deſired; but when he was in *Alexander*'s Power, (which made it a matter of force, not of his own choice) he made no ſcruple to ſubmit to *Alexander*, and become his Subject and Tributary, as he formerly was the ſworn Subject of *Darius*.

This, I think, ſufficiently proves the firſt thing, that this *Convocation* taught, that Princes, who have no Legal Right to their Thrones, when they are placed there by God, are inveſted with God's Authority, and muſt be reverenced and obeyed by all Subjects, in as full a manner, as any other the moſt legal and rightful Prince can challenge.

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2*dly*, The only Enquiry then is, what the Convocation means by the Government's being *throughly ſetled*. A Prince, who is throughly ſetled in his Throne, has God's Authority, and muſt be obeyed; but when is his Government throughly ſetled?

Now here it is, that men may impoſe upon themſelves, if they will, and if they think it their Intereſt to do ſo; and may make as little or as much go to a through ſettlement, as they pleaſe; for the *Convocation* has not determined the bounds of it: they thought this a viſible thing, that every Subject could ſee, when the Government is ſo ſetled, as to make our Obedience due and neceſſary, and therefore there was no need of defining, what it is to be throughly ſetled: When the whole adminiſtration of Government, and the whole power of the Nation is in the hands of the Prince; when every thing is done in his Name, and by his Authority; when the Eſtates of the Realm, and the great Body of the Nation has ſubmitted to him, and thoſe who will not ſubmit, can be cruſhed by him, when ever he pleaſes; if this be not a ſetled Government, I deſpair of ever knowing what it is; for there is no Government in the World ſo ſetled, but that by ſome unſeen Accident, or by greater Force and Power, it may be unſetled; and in this ſenſe it is impoſſible ever to know, when a Government is ſetled; for no Goverment is, or can be thus ſetled againſt all events: but then the Government is viſibly ſetled, when the Prince has the full and perfect Adminiſtration of all Affairs relating to his Kingdom.

But if the general ſubmiſſion of the People ſettle a Government, I am ſure, that is eaſily enough known, when a Nation has ſubmitted to a Prince; but this will not be allowed us, that the ſubmiſſion of the People ſettles the Government, unleſs the Prince, who has the Right to Govern, ſubmit alſo; but I would gladly hear a good Reaſon for this: The ſubmiſſion of the Prince indeed may be thought neceſſary to transfer a Legal Right; but the ſubmiſſion of the People, of it ſelf, is ſufficient to ſettle a Government, and when it is ſetled, then it is the Authority of God, whatever the Humane Right be.

This I take to be the true ſenſe of this *Convocation* concerning Obedience to Sovereign Powers; all Sovereign Powers, whoſe Power and Goverment is *throughly ſetled*, muſt be obeyed, whatever their Legal Right be; for they have the Authority of God, to which our Obedience and Subjection is due, and that ſuperſedes all further enquiries. This is a good Argument

from Authority, and as good Authority as can be urged to the Members of the Church of *England*; for if a *Convocation* cannot declare the Judgment of the Church of *England*, I know not whence we shall learn it.

But I will not rely only upon Authority, but I think so great an Authority, if it do not determine our judgment, ought at least to make us more carefully and impartially to examine the Reasons of things, and to deliver us from the Tyranny of Præpossession and Prejudice; and to that I proceed.

SECT. III.

The Testimony of Scripture *and* Reason *in this matter.*

THat which we are to prove, is, That all Sovereign Princes, who are setled in their Thrones, are placed there by God, and invested with his Authority, and therefore must be obeyed by all Subjects, as the Ministers of God, without enquiring into their Legal Right and Title to the Throne: The Proofs of this from Scripture and Reason must necessariiy be intermixt and interwoven with each other; and to set this matter in as clear a Light as I can, I shall reduce the whole into some plain Propositions.

Prop. 1. That all Civil Power and Authority is from God; for he is the Supreme Lord of the World, and has the sole Right to Govern his Creatures, and therefore no man can have any Authority but from God: this will be readily acknowledged by all, who believe, that there is a God, and that he made and governs the World.

Prop. 2. That Civil Power and Authority is no otherwise from God, then as he gives this Power and Authority to some particular Person or Persons, to Govern others: For Authority belongs to a Person, and that Power and Authority, which any Person exercises, is not from God, which God never gave him: If he Governs without receiving his Personal Authority from God, he Governs without God's Authority.

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I take notice of this to prevent a common Evaſion, that all Power is ſaid to *be of God*, becauſe God has inſtituted Civil Authority; not that every one, who exerciſes this Authority, receives it from God.

But what they mean by the Inſtitution of Civil Authority, I cannot tell, unleſs it be, that God intended, that Mankind ſhould live under Government: but this does not prove, that all Power and Authority is from God, unleſs thoſe, who exerciſe this Authority, receive it from God: And it is plain, that St. *Paul*, 13 *Rom.* 1. by the *Higher Powers*, and *all power*, means thoſe, who exerciſe this Supreme Power, that all ſuch Soveraign Princes are ſet up by God, and receive their Authority from him; they are the *Rulers*, v. 3. *the Miniſters of God, who bear the Sword*, v. 4. and in St. *Peter*, *the King as Supreme*, 1 *Pet.* 2. 13.

Prop. 3. There are but three ways whereby God gives this Power and Authority to any Perſons: Either by Nature, or by an expreſs Nomination, or by the diſpoſals of Providence.

By Nature: Parents have a Natural Superiority over their Children, and are their Lords and Governours too: This was the firſt Government in the World, and is the only Natural Authority; for in propriety of ſpeaking, there is no Natural Prince but a Father. But by what bounds this paternal and Patriarchal Authority was limited, we cannot tell; how the extent of their power was ſtinted, and where new Families, and new Governments began; and it is in vain for us to enquire after it now.

By a particular Nomination: God made Kings only in *Jewry*, and entailed the Kingdom of *Judah* upon *David*'s Poſterity: and after the Diviſion of the *Ten Tribes* from the Kingdom of *Judah*, by expreſs Nomination ſet *Jeroboam* and *Jehu* over the Kingdom of *Iſrael*.

But God ruled in all the other Kingdoms of the World, as well as in *Jewry*, and all other Kings ruled by God's Authority, as well as the Kings of *Judah* and *Iſrael*, who were advanced by his Command: *For the moſt high ruleth in the Kingdom of men, and giveth it to whomſoever he will, and ſetteth up over it the baſeſt of men*, 4 Dan. 17. *It was the God of Heaven, that gave* Nebuchadnezzar *a Kingdom, Power, and Strength, and Glory. It is he, that changeth times and ſeaſons, that removeth Kings, and ſetteth up Kings*, 2 Dan. 21. 37. and the Prophecy of the *four Monarchies* is a demonſtration of it.

But now God governs the reſt of the world, removeth Kings, and ſetteth up Kings, only by his Providence; that is, then God ſets up a King, when by his Providence he advances him to the Throne, and puts the Soveraign Authority into his hands; then he removeth a King, when by his Providence he thruſts him from his Throne, and takes the Government out of his hands: for Providence is God's Government of the world by an inviſible influence and power, whereby he directs, determines, over-rules all Events to the accompliſhment of his own Will and Counſels, in diſtinction from his more viſible Government by his *Oracles* and *Prophets*, or the expreſs ſignifications of his Will as he in former Ages governed *Iſrael.*

Nor does it make any difference in this Caſe to diſtinguiſh between what God permits, and what he does; for this diſtinction does not relate to the Events of things, but to the wickedneſs of men; which is the only reaſon for this diſtinction; for the Scripture never ſpeaks of God's bare permiſſion of any Events, but makes him the Author of all the good or evil which happens either to private perſons, or publick Societies. The Events of all things are in his hands, and are ordered and diſpoſed by his Will and Counſel, as they muſt be if God governs the world: but God cannot be the Author of any wickedneſs, cannot inſpire men with any wicked counſels or deſigns, nor incline their wills to the commiſſion of it, and therefore this we ſay God only permits; but when it comes to action, he over-rules their wicked deſigns to accompliſh his own Counſels and Decrees; and either diſappoints what they intended, or gives ſucceſs to them, when he can ſerve the ends of his Providence by their wickedneſs: and herein conſiſts the unſearchable wiſdom of Providence, that God brings about his own Counſels by the free Miniſtries of men: He permits men to do wickedly, but all Events, which are for the good or evil of private men, or publick Societies, are ordered by him, as the Prophet declares, *Amos* 3.6. *Shall there be evil in a City, and the Lord hath not done it.*

And yet if there were any ſuch diſtinction as this, that ſome Events God only permits, and ſome he orders and appoints, we ought in reaſon to aſcribe the advancement of Kings to God's decree and counſel, becauſe it is the principal act of Providence, which has ſo great an influence upon the government of the world; and if he decree and order any Events, certainly he peculiarly orders ſuch Events as will do moſt good or moſt hurt to

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the world. He muſt with his own hand immediately direct the motions of the great wheels of Providence; and not permit them to move as they pleaſe themſelves. Eſpecially when we remember, that Kings are God's Miniſters and Lieutenants, and are inveſted with his Authority: Now to give Authority to any perſon, does not ſignifie to permit him to take it; and we cannot but think that God will exerciſe a particular care and providence in appointing his great Miniſters. No man can have God's Authority, but he to whom it is given; and if the advancement to the Throne inveſts ſuch a Prince with God's Authority, then God gives him the Throne, and does not meerly permit him to take it; for no man can take God's Authority, but it muſt be given.

Nay, ſince God makes Kings now, not by an expreſs nomination of any perſons, but only by the Events of Providence, we muſt not allow, that God at any time permits men to make themſelves Kings, whom he does not make Kings: for then we can never diſtinguiſh between Kings by the permiſſion and by the appointment of God, between God's Kings, and Kings of their own making; unleſs all Kings are ſet up by God, and inveſted with his Authority, we can never know what King's have God's Authority, who thoſe are, whom we muſt obey out of Conſcience, and whom we muſt not obey: there is no direction how to diſtinguiſh them, and the Events of Providence in placing them in the Throne, are the ſame in both.

Now the neceſſary Conſequence of this is, that by what means ſoever any Prince aſcends the Throne, he is placed there by God, and receives his Authority from him. There are very different ways indeed, whereby this is done; ſometimes by the Election of the people; ſometimes by Conqueſt (which has been the viſible Original of moſt Governments) and when any Family is thus advanced to the Throne, it is continued by Succeſſion and legal Entails; but all theſe ways, or any other, that can be thought of, are governed and determined by the Divine Providence, and the Prince thus advanced is as truly placed in the Throne by God, as if he had been expreſly nominated, and anointed by a *Prophet* at God's command, as *Saul* and *David* were. Sometimes God leaves a free People to chooſe their own King, and then he directs their choice to ſuch a perſon as he will make King. Sometimes he ſuffers an aſpiring Prince to invade and conquer a Country, but he never ſuffers him to aſcend the Throne, but when he ſees fit to make him

King.

King. Sometimes he not only places a single Person in the Throne, but entails it on his Family by Human Laws, and makes the Throne a legal Inheritance; but when he sees cause for it, he interrupts the Succession, or finally transfers the Kingdom to another Family.

Prop. 4. All Kings are equally rightful with respect to God: for those are all rightful Kings, who are placed in the Throne by God, and it is impossible there should be a wrong King, unless a man could make himself King, whether God will or no. The whole Authority of Government is Gods, and whoever has God's Authority is a true and rightful King; for he has the true and rightful Authority of a King; and if all Kings, who are settled and established in their Thrones, are set up by God, and have his Authority, with respect to the Authority which they have from God, they are rightful Kings.

Prop. 5. The distinction then between a King *de jure*, and a King *de facto*, relates only to Human Laws, which bind Subjects, but are not the necessary Rules and Measures of the Divine Providence. In Hereditary Kingdoms, He is a rightful King, who has by Succession a legal Right to the Crown; and He who has possession of the Crown, without a legal Right, is a King *de facto*; that is, is a King, but not by Law: Now Subjects are so tied up by the Constitutions of the Kingdom, that they must not pull down or set up Kings contrary to the Laws of the Land; but God is not bound by Human Laws, but can make whom he pleases King, without regard to legal Rights, and when he does so, they are true, though not legal Kings, if those are true Kings who have God's Authority.

Prop. 6. We can have but one King at a time: two rival and opposite Princes cannot at the same time possess the same Throne, nor can Subjects be bound to two opposite and contrary Allegiances; for *no man can serve two Masters*; and yet Allegiance is due to a King by the Laws of God, and to every King whose Subjects we are, that if we could have two Kings, we must have two Allegiances.

Prop. 7. He is our King who is settled in the Throne in the actual Administration of Soveraign Power: for *King* is the Name of Power and Authority, not of meer Right. He, who has a legal Right to the Crown, but has it not, ought by the Laws of the Land to be King, but is not: but he, who is actually settled in the Administration of the Regal Power, is King, and has God's Authority, though he have not a legal Right.

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But the Objection againſt this is, That it is *Hobbiſm*, that Dominion is naturally annexed to Power; but thoſe who ſay this, do not underſtand Mr. *Hobbs*, or me: for He makes Power, and nothing elſe, to give Right to Dominion; and therefore aſſerts, That God himſelf is the Natural Lord and Governour of the World, not becauſe he made it; but becauſe he is Omnipotent; but I ſay, That Government is founded in Right, and that God is the Natural Lord of the World, becauſe he made it; and that no Creature has any Right to Govern the World, or any part of it, but as he receives Authority from God: and therefore ſince Power will Govern, God ſo orders it by his Providence, as never to intruſt Soveraign Power in any Mans hands, to whom he does not give the Soveraign Authority: that Power does not give Right and Authority to Govern, but is a certain ſign to us, that where God has placed and ſettled the Power, he has given the Authority.

Prop. 8. Allegiance is due only to the King: for Allegiance ſignifies all that Duty, which Subjects owe to their King, and therefore can be due to none but the King.

If then he who has the Legal Right may not be our King, and he who has not, may; when any ſuch Caſe happens, we muſt pay our Allegiance to him who is King, though without a Legal Right; not to him who is not our King, though it is his Right to be ſo: And the reaſon is very plain, becauſe Allegiance is due only to God's Authority, not to a bare Legal Title without God's Authority; and therefore muſt be paid to him who is inveſted with God's Authority, who is his Miniſter and Lieutenant; that is, to the Actual King, who is ſetled in the Throne, and has the Adminiſtration of Government in his hands.

Object. But if this be ſo, what does a Legal Right ſignifie, if it do not command the Allegiance of Subjects?

Anſw. I anſwer: It barrs all other Humane Claims: No other Prince can challenge the Throne of Right: and Subjects are bound to maintain the Rights of ſuch a Prince, as far as they can; that is, againſt all Mankind; but not againſt God's diſpoſal of Crowns: and therefore when God transfers the Kingdom, he transfers our Allegiance, which is due, and annexed to his Authority, whether this Authority be conveyed by a Legal Succeſſion, or by any other means.

Object.

Object. But if we have ſworn Allegiance to ſuch a Prince, and his Heirs, and lawful Succeſſors, how can we pay Allegiance to any other Prince, while He, or any of his Heirs, and Legal Succeſſors are living, and claim our Allegiance, without violating our Oaths?

Anſw. I anſwer: An Oath of Allegiance made to any King, can oblige no longer than he continues to be King; for if it did, it would oblige us againſt our Duty, and ſo become an unlawful Oath: for our Allegiance is due to him who is King, in the actual and ſetled poſſeſſion of the Throne, and therefore muſt by the Law of God be paid there; and then it cannot be paid to the diſpoſſeſſed Prince, unleſs we can have two Allegiances: Our Oath then to the diſpoſſeſſed Prince ceaſes, *Ceſſante materiâ*; for though the Man is in being ſtill, the King is gone.

But we ſwear to maintain and defend his Right, and the Right of his Heirs: but yet we do not ſwear to keep them in the Throne, which may be impoſſible for us to do againſt a proſperous Rebellion; nor do we ſwear in Caſe they are thrown out of the Throne, never to ſubmit or pay Allegiance to any other Prince; which would be an unlawful Oath, as contrary to that Duty we owe to the Divine Providence in making Kings, and removing Kings. The Oath of Allegiance contains the Duty of Subjects to their King, and can extend no farther, and therefore can oblige no longer than he is our King, and we his Subjects.

Theſe ſeem to me, to be very plain *Propoſitions*, and to carry their own Evidence with them; and if this be true, it is a very plain Direction to Subjects in all the Revolutions of Government.

The moſt that can be expected from them, according to the ſtricteſt Principles of Loyalty and Obedience, is to have no hand in ſuch Revolutions, or to oppoſe them as far as they can, and not to be haſty and forward in their Compliances; but when ſuch a Revolution is made, and they cannot help it; they muſt reverence and obey their New Prince, as inveſted with God's Authority.

Nor is it very hard to know, when our Obedience becomes due to a New Prince; for it does not conſiſt in a Mathematical point, nor require Mathematical certainty: Our Obedience is due to God's Authority, and when we can reaſonably conclude, that God has made him King; that is, when the Providence of God has ſetled him in the Throne, we muſt pay our Obedience to him.

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There are different degrees of Settlement, and muſt neceſſarily be in ſuch new Governments, which ſeem to me to require different degrees of Submiſſion, or at leaſt to juſtifie them, till it increaſes to ſuch a full and plenary and ſettled poſſeſſion, as requires our Allegiance, as being notoriouſly evident and ſenſible to all that do not wink hard, and will not ſee it.

If the generality of the Nation ſubmit to ſuch a Prince, and place him on the Throne, and put the whole power of the Kingdom into his hands, though it may be, we cannot yet think the Providence of God has ſettled him in the Throne, while the diſpoſſeſſed Prince has alſo ſuch a formidable power, as makes the Event very doubtful, yet if we think fit to continue in the Kingdom, under the government and power of the new Prince, there are ſeveral Duties, which in reaſon we ought to pay him.

As to live quietly and peaceably under his government, and to promiſe, or ſwear, or give any other ſecurity that we will do ſo, if it be demanded: It is reaſonable we ſhould do ſo, if we think it reaſonable to live under the protection of the government; this all men do in an Enemies quarters, and no man blames them for it.

We muſt pay Taxes to them; for theſe are due to the Adminiſtration of government, as St. *Paul* obſerves; *For this cauſe pay ye Tribute alſo, for they are the Miniſters of God, attending continually on this very thing*, 13 Rom. 6. And if we owe our ſecure poſſeſſion of our Eſtates to the protection of government, let the government be what it will, we ought to pay for it.

We muſt give the Title of King to ſuch a Prince, when we live in the Country where he is owned for King; for beſides that it is a piece of good manners (which is the leaſt thing we can owe to him, under whoſe government we live) he is indeed King, while he adminiſters the Regal power, though we may not think him ſo well ſettled in his government, as to all intents and purpoſes to own him for our King.

Nay, we muſt pray for him under the Name and Title of King, for we are bound to pray for all who are in Authority; and that a Prince is, who has the whole government in his hands, and has power to do a great deal of hurt, or a great deal of good; and this is ſo far from being a fault, that it is a duty, while we take care to do it in ſuch terms, as not to pray againſt the diſpoſſeſſed Prince.

Thus far I think the doubtful possession of the Throne obliges us, and it were very happy if no more were required in the beginnings of such a new government; but when besides the possession of the Throne, the power of the dispossessed Prince is broken, and no visible prospect of his recovering his Throne again; nay, if it be visible that he can never recover his Throne again, but by making a new Conquest of the Nation by Foreigners, who will be our Masters, if they conquer, and no very gentle ones neither; we may then look upon the new Prince as advanced and settled by God in his Throne, and therefore such a King, as we owe an entire Obedience and Allegiance to.

For we must not take the consideration of Right into the settlement of Government; for a Prince may be settled in his Throne without legal Right, and when he is so, God has made him our King, and requires our Obedience.

These principles are so very useful, especially in all Revolutions of government, that Subjects have great reason to wish them true, and to examine over again those strict principles of Loyalty, which if pursued to their just consequences, must unavoidably in some Junctures, sacrifice whole Kingdoms, at least all Subjects who prerend to this degree and kind of Loyalty and Conscience, to the ill Fortune of their Prince.

SECT. IV.

Some Reasons and Arguments urged, and Objections answered, for the further Confirmation of this Doctrine.

THat we may examine this more impartially and more securely rely upon the Dictates of Reason in this matter, I observe,

1. That the Scripture has given us no Directions in this Case, but to submit, and pay all the Obedience of Subjects to the present powers. It makes no distinction, that ever I could find, between rightful Kings and Usurpers, between Kings whom we must, and whom we must not obey; but the general Rule is, *Let every Soul be subject to the higher Powers, for all power is of God, the Powers that be are ordained of God: whosoever therefore resisteth the Power, resisteth the Ordinance of God, and they that resist shall receive to them-*

themſelves damnation, 13 Rom. 1, 2. To ſay the *Apoſtle* here ſpeaks of lawful powers, is *gratis dictum*, for there is no Evidence of it: The Criticiſm between ἐξουσία and δύναμις will not do; for they both ſignifie the ſame thing in Scripture, either force and power, or authority: οὐκ ἐγὼ ἐξουσιασθήσομαι ὑπό τινος, *I will not be brought under the power of any thing*, muſt ſignifie force, 1 *Cor.* 6. 12. and δύναμις muſt ſignifie authority and dignity, 1 *Epb.* 21. ὑπεράνω πάσης ἀρχῆς καὶ ἐξουσίας καὶ δυνάμεως καὶ κυριότητος, which are ſeveral names and degrees of dignity and authority, as well as power. Κυριεύειν and ἐξουσιάζειν ſignifie the ſame thing, the exerciſe of civil authority and power, 22 *Luke* 25. and therefore αἱ ἐξουσίαι are the οἱ ἐξουσιάζοντες, thoſe who exerciſe authority and dominion; the οἱ ἄρχοντες, *the Rulers*, v. 3. *the Miniſters of God, which bear the Sword*, *v.* 4. In St. *Peter*, the Βασιλεὺς and Ἡγεμόνες, the King, and his Governours and Magiſtrates, 1 *Peter* 2. 13, 14. Now there may be Kings and Emperours and Rulers, who exerciſe civil government without a legal Title to it, in the ſenſe of the Objectors, yet St. *Paul* has made no Exception againſt them; but if they be the Powers, if they exerciſe the Supream Authority, they are of God, and are the Ordinance of God: for πᾶσα ἐξουσία is πᾶς ἐξουσιάζων; which evidently relates to the Exerciſe of Civil Authority, not to a legal Right. And why ſhould we think the *Apoſtle* here intends a diſtinction unknown to Scripture: had there been any ſuch Rule before given, to ſubmit to lawful powers, but not to ſubmit to Uſurpers, there had been ſome pretence for underſtanding St. *Paul*'s *all power* of all legal power; but there being nothing like this any where elſe in Scripture, if he had intended any ſuch diſtinction, he ought to have ſaid it in expreſs words, or elſe no body could reaſonably have underſtood him to intend this precept of ſubjection to the higher powers, only of powers that had a legal Right. For then, in order to the fulfilling of this precept, it would be neceſſary for Subjects to examine the Titles of Princes, and to that end to be well skill'd in the Hiſtory and Laws of a Nation, and to be able to judge between a pretended and real Right, and to know exactly what gives a real Right, that they may know to whom they ought to pay ſubjection, and may not miſplace their duty in ſo important a matter. And let any man judge in what perplexities this ſenſe of the Apoſtles precept would involve the Conſciences of men? for theſe are great diſputes among learned men, and how then ſhould unlearn-

ed men underſtand them? And I cannot think that the reſolution of Conſcience, in ſuch matters as all Mankind are concerned in, ſhould depend upon ſuch Niceties as learned men themſelves cannot agree in. Eſpecially if we conſider the Caſe of the *Roman* Empire, in which, for ſo many Ages together, the Titles of their Emperours were either all of them ſtark nought, or the very beſt of them very doubtful. And yet this Epiſtle to the *Romans* was written to the Subjects of that Empire to direct them in the point of ſubjection and obedience. This I take to be little leſs than a demonſtration, that this precept of St. *Paul* cannot be underſtood only of ſubjection to powers that had a legal Right.

Beſides this, the reaſon the *Apoſtle* gives for ſubmiſſion to the higher powers is not a legal Right, but the Authority of God; *that all power* (or every one, who exerciſeth the ſupreme power) *is of God*, and *the Ordinance of God*, which ſeems plainly intended to wave the diſpute about the legality of the powers, which was the Objection of the *Phariſees*, againſt ſubmiſſion to the *Roman* power; and an Objection which no body made but themſelves: they thought they were not bound by God to ſubmit to the *Roman* powers; nay, that they were bound by the Law of God not to ſubmit to them, as being unjuſt Uſurpations upon the priviledges and liberties of God's people, and therefore the *Apoſtle* tells them, that *all power is of God*; *the powers that be are ordained of God*, wherein certainly he never intended to juſtifie all the *Roman* Uſurpations, or to vindicate the legality of their power, which will as reaſonably juſtifie all the Revolutions that ever were in the world; but to aſſert the providence of God, and his ſupream authority, in transferring Kingdoms and Empires, in removing Kings, and ſetting up Kings. And when the *Apoſtle* ſays, *All power is of God*, there is no reaſon to confine this *to all legal powers*, unleſs it were evidently the Doctrine of Scripture, that *uſurped powers are not of God*, which is ſo far from being true, that the contrary is evident; *that the moſt high ruleth in the kingdom of men, and giveth it to whomſoever he will*, 4 *Dan.* 17. which is ſpoke with reference to the *four Monarchies*, which were all as manifeſt Uſurpations as ever were in the world, and yet ſet up by the decree and counſel of God, and forerold by a prophetick Spirit: and whoever will confine the power and authority of God, *in changing Times and Seaſons, in removing Kings and ſetting up Kings*, to Human Laws, ought not to be diſputed with.

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To this I add, that this diſtinction, that only Legal, not Uſurped Powers, are of God, had made the *Apoſtles* direction ſignifie nothing, for the great Queſtion had been ſtill undetermined, what Powers are of God, and what Powers they muſt obey, if ſome Powers be of God, and ſome not. When he ſays, *the Powers that be*, had he confined this to *the then preſent Powers*, it would have directed them at that time, but had been no general direction to Chriſtians in other Ages, to obey the preſent powers, and then we have no direction in Scripture, what to do in ſuch diſputed Caſes, unleſs by a parity of Reaſon; and if we muſt obey ſuch powers, as the *Roman* power was, I know very few powers that we may not obey: for whatever Legal Right the *Roman* Emperors had, who by fear, or flattery, or other arts, extorted ſome kind of conſent from the *Senate*, it is plain, the *Romans* themſelves were great Uſurpers, and had no other Right to the greateſt part of their Empire, but Conqueſt and Uſurpation.

This I'm ſure, the only direction of Scripture is to ſubmit to thoſe who are in Authority, who are in the actual adminiſtration of Government, to reverence and obey them, to pray for them, to pay Tribute to them, *as God's Miniſters, attending continually upon this very thing*, and not to reſiſt them; but there is not the leaſt notice given us of any kind of Duty owing or to be paid to a Prince out of Authority, and removed from the adminiſtration of Government, whatever his Right may be: We have no Example in Scripture, that any people were ever blamed for ſubmitting to the preſent powers, whatever the Uſurpation were, though we have Examples of their being condemned for refuſing to ſubmit to them; witneſs the Propheſies of *Jeremiah*, and the Diſcourſes of our *Saviour* with the *Scribes* and *Phariſees* about paying Tribute to *Cæſar*.

Our Saviour's Argument relies wholly on the poſſeſſion of power, *whoſe Image and Superſcription hath it?* And if this be a good Reaſon, it is good in all other caſes; that we muſt ſubmit to all Princes, who are poſſeſſed of the Soveraign power, and are in the full adminiſtration of Government: The Prophet *Jeremy*'s Argument is Prophecy, or an expreſs Command from God to ſubmit to the King of *Babylon*; and there was great reaſon for an expreſs Command from God at that time, becauſe God himſelf had entailed the Kingdom upon *David*'s Poſterity, and therefore without an expreſs Command from God, they could not ſubject themſelves to any other Prince, while any of that Family were living, which

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which is the reason that *Jehoiada* the High-Priest gives for deposing *Athaliah*, who had Usurped the Throne for six years, and anointing *Joash* the King's Son; *behold the King's Son shall Reign, as the Lord hath said of the Sons of David:* But where God has made no entail of the Crown, but the entail is only by Humane Laws, there is no need of Prophecy to direct people to submit to any new Prince, whom God sets over them.

For we must observe, that this was at the beginning of the *four Monarchies*, which God intended successively to erect, to whom he gave the Kingdoms of the World, not excepting his own people *Israel*; and in that Command he gave to them to submit to those Powers, (which was renewed by Christ and his Apostles) has taught all Christians to do so too, and not to oppose any Humane Right or Interest against the Divine will and pleasure, when it is sufficiently declared by the events of Providence. And the Prophecy of the *four Monarchies* is not yet at an end; for under the *fourth* Monarchy the Kingdom of *Christ* was to be set up, and *Antichrist* was to appear, and the increase and destruction of the Kingdom of *Antichrist* is to be accomplished by great Changes and Revolutions in Humane Governments; and when God has declared, that he will change Times and Seasons, remove Kings, and set up Kings, to accomplish his own wise Counsels, it justifies our necessary, and therefore innocent compliances with such Revolutions, as much as if we were expresly commanded to do so, as the *Jews* were by the *Prophet Jeremiah*. This a man may say without Enthusiasm, or pretending to understand all the Prophesies of the *Revelations*, and to apply them to their particular events, for without that we certainly know, that all the great Revolutions of the World are intended by God to serve those great ends; and when God will overturn Kingdoms and Empires, remove and set up Kings, as he sees will best serve the accomplishment of his own Counsels and Decrees, it is very hard, if Subjects must not quietly submit to such Revolutions: we must not contrary to our sworn Duty and Allegiance promote such Revolutions, upon a pretence of fulfilling Prophesies, but when they are made and setled, we ought to submit to them.

Now when we have no direction in Scripture at all about making or unmaking Kings, or restoring a dispossessed Prince to his Throne again, and all the Commands we have in Scripture about Obedience and Subjection to Government, manifestly

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reſpect the preſent Ruling Powers, without any diſtinction between Rightful or Uſurped powers, it ſeems plainly to determine this Queſtion on the ſide of the preſent powers; at leaſt it leaves us to the guidance and conduct of Reaſon in this matter, and therefore let us impartially conſider what Reaſon ſays.

2. I obſerve then in the next place, that this gives the eaſieſt and moſt intelligible account of the Original of Humane Government; that all Power is from God, who is the Soveraign Lord of the World.

This has been a very perplext and intricate Diſpute both in Religion and Politicks, and men have zealouſly eſpouſed different *Hypotheſes*, as they have had different ends to ſerve.

The matter of Fact, how Monarchies firſt began, and what was the Original of particular Monarchies, is very obſcure for want of Hiſtory, which is the only way to know it: Some think, all power was originally derived from the Choice and Conſent of the People: others aſcribe it to the Right of Conqueſt, which they think without more ado confers a Right of Government; others think Conqueſt gives no Right, but the Submiſſion of the conquered people, or the long continuance of ſuch an Uſurpation does; eſpecially when ſuch a Government deſcends from Father to Son, and is become an Inheritance, either by Præſcription, or Laws; which ſome men think then ſo Sacred, that they muſt in no caſe ſubmit to any other Government, while any Legal Heir to the Crown is living, and makes his Claim.

Now I think there is no doubt, but ſeveral Governments have been begun all theſe ways, but ſtill it is God, who by his Providence advances men to the Throne, and inveſts them with his Authority by all theſe ways; for the Authority is Gods, and it is his advancing them to the Throne which gives them this Authority.

It is evident, there is no Natural Authority, but the *Paternal* and *Patriarchal* Authority; and that Monarchies were erected upon the ruins or great diminution of it; and whether this were by conſent, or (as is moſt probable) by violent Uſurpations, of which *Nimrod* ſeems to have ſet the firſt Example, it was equally unjuſt; for no Authority is ſo Sacred, as what is Natural, which no man had Authority to give away, or to Uſurp:

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But by this means God erected Monarchies, and gave his Authority to Men, who had no Authority of their own.

If the Choice and Conſent of the people makes a Prince, then no man is a Subject, but he who conſents to be ſo; for the Major Vote cannot include my conſent, unleſs I pleaſe; that is the effect of Law and Compact or Force, not of Nature. If Subjects give their Prince Authority, they may take it away again, if they pleaſe; there can be no irreſiſtible Authority derived from the people; for if the Authority be wholly derived from them, who ſhall hinder them from taking it away, when they ſee fit? Upon theſe Principles, there can be no Hereditary Monarchy; one Generation can only chooſe for themſelves, their Poſterity having as much Right to chooſe as they had:

If Conqueſt gives a Right, then Force, the moſt unjuſt and violent Force, is Right; and then every man by the ſame Rule, who is ſtronger than I am, has a Natural Right to govern me.

Submiſſion is only a forced and after-conſent, not to make a King, but to own him, who has made himſelf King, and whom very often we would diſown and reject, were it ſafe to do ſo; and what Right can that give more than Force?

The continuance of an Uſurpation can never give a Right, unleſs that which is wrong can grow right by continuance: An Uſurper by long continuance may out-live thoſe, who formerly wore the Crown; but does it give Right to him, who has none, that he out-lives thoſe, who had the Right? For though no body elſe has any Right to the Crown, how does this make him a Rightful King, who has no Right?

An *Hereditary Right* is either a continued Uſurpation, which can give no Right, or a Right by Law; that is, by the conſent of the people to entail the Crown on ſuch a Family, which, as I obſerved before, if Right be reſolved into the Choice and Conſent of the people, cannot be done; for what Right had my Anceſtors three or four hundred years ago, to chooſe a King for me?

So that I cannot ſee where to fix the Foundation of Government, but in the Providence of God, who either by the choice of the major or ſtronger part of the people, or by Conqueſt, or by Submiſſion, and the long ſucceſſive continuance of power, or by Humane Laws, gives a Prince and his Family poſſeſſion of the Throne, which is a good Title againſt all Humane Claims, and requires the Obedience and Submiſſion of Subjects as long as God is pleaſed to continue him and his Family in the Throne; but it is no Title againſt God, if he pleaſe to advance another Prince.

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To ſay that God ſets up no Prince, who aſcends the Throne without a Human and Legal Right, is to ſay, that ſome Kings are removed, and others ſet up, but not by God; which is a direct contradiction to Scripture; it is to ſay, That the *Four Monarchies* were not ſet up by God, becauſe they all began by Violence and Uſurpation: It is to ſay, That God, as well as men, is confined by Human Laws, in making Kings: It is to ſay, That the Right of Government is not derived from God, without the conſent of the People; for if God can't make a King without the People, or againſt their Conſent declared by their Laws, the Authority muſt be derived from the People, not from God; or at leaſt if it be God's Authority, yet God can't give it himſelf without the People, nor otherwiſe than as they have directed him by their Laws.

This is all very abſurd, and what thoſe perſons abhor the thoughts of, who inſiſt ſo much upon a Legal Right, that they will own no King, who aſcends the Throne, without it, nor believe that God places him there without and againſt a Legal Right: but if they would examine themſelves for what Reaſon they believe that a King who has no Right to the Throne, is not ſet up by God, and inveſted with his Authority, they will find, That it muſt ultimately reſolve it ſelf into the Authority of the People to make Kings, which it is unjuſt for God himſelf to over-rule and alter; for a Legal Entail is nothing more than the Authority of the People; and if the People have ſuch an uncontroulable Authority in making Kings, I doubt they will challenge as much Authority to unmake them too. If the ſole Autho ity of Government be from God, and God gives this Authority only by placing a Prince in the Throne, then by whatever means he does it, it is the ſame thing. When ſuch a Prince is ſetled in the Throne, he is God's King and Miniſter, and muſt be Reverenced and Obeyed by the People who live under his Government; thus it muſt be, *if all Power be of God.*

But there are ſeveral Objections againſt this, which muſt be briefly anſwered.

1. It is objected, That this makes a Prince loſe his Right by being notoriouſly injured; for if a proſperous Uſurper gets into the Throne, and ſettles himſelf there, God has taken away his Crown, and given it to another; and therefore he ought not to attempt the recovery of his Throne (nor any other Prince to aſſiſt him in it) which is to oppoſe God, and to challenge that which he has no longer any Right to. *Obj.*

Answer. I answer, By no means: The Providence of God removes Kings, and sets up Kings, but alters no Legal Rights, nor forbids those who are dispossessed of them, to recover their Right, when they can. While such a Prince is in the Throne, it is a declaration of God's Will, that he shall Reign for some time, longer or shorter, as God pleases; and that is an obligation to Subjects to submit and obey; for Submission is owing only to God's Authority; but that one Prince is at present placed in the Throne, and the other removed out of it, does not prove, that it is God's Will it should always be so, and therefore does not divest the dispossest Prince of his Legal Right and Claim, nor forbid him to endeavour to recover his Throne; nor forbid those who are under no obligation to the Prince in possession, to assist the dispossessed Prince to recover his Legal Right: A Legal and Successive Right is the ordinary way whereby the Providence of God advances Princes to any Hereditary Throne: And this bars all other human Claims; but yet God may give the Throne to another, if he pleases; and this does not destroy the Legal Right of the dispossessed Prince, nor hinder him from claiming it, when he finds his opportunity.

But it may perhaps be farther said, If the dispossessed Prince may still have the Legal Right and Claim to the Crown, and he who is possessed of the Crown, may have none, is it not very unjust in Subjects to pay Allegiance to him who is possessed of the Throne without Right, and to withdraw their Allegiance from him who has the Right? Is not this to justifie and support Injustice and Violence, and to oppress oppressed Innocence and Right? And can the Providence of God make that our Duty, which is so manifestly unjust and wicked?

I answer; To deny any man, much more a Prince, what is his just Right, and which I am bound to give him, is certainly very unjust, and that which the Providence of God can never justifie; but then we must consider, What the Prince's Right is; and, What is the Duty of Subjects; and, When Subjects may be said to deny their Prince's Right.

The Right of the Prince is to administer the Government of the Nation; the Duty of Subjects is to submit to his Government, and obey his Laws, when he does actually administer the Government; and those who do not refuse to obey him when he governs, deny him no Right that they owe him; for there is no Duty Subjects owe to Princes, as Subjects, but to obey them; and not to obey, when they don't and can't Govern, is to deny no Right. Yes,

Yes, you'l ſay, The poſſeſſion of the Crown, and the actual Adminiſtration of Government, is his Right; and if we own any other Governing Power, we deny him that Right.

I anſwer, Suppoſe he have a Legal Right to Govern, but can't; Obedience is not his Right; and therefore to pay my Obedience to thoſe who do Govern, is no denial of his Legal Right; but a due Submiſſion to the Providence of God, who hath a Right ſuperiour to all Human Rights, in the diſpoſal of Crowns and Kingdoms.

The Duty of Subjects as ſuch, is to obey their Prince, and ſubmit to him whilſt he governs, and is in poſſeſſion of the Throne: But then Kings muſt take ſome care alſo to preſerve their Crowns by good Government; and if they will run the hazard of their Crowns, thoſe of their Subjects are certainly not to be blamed by ſuch a Prince, who did nothing to take his Crown from him.

But ſome it may be will ſay, That ſuch Subjects are bound even in ſuch a caſe to maintain and defend their King in his Throne.

I am not ſo very ſure of that; but this I am ſure of, That whenever People have a good King, it is both their Duty and Intereſt to defend him; and if they be not miſled by the Cunning and Artifice of ill men, they will certainly do ſo. But if they have a very bad one, that notoriouſly violates their Rights, and breaks the Conſtitution upon which himſelf ſtands, and ſtrikes at the deareſt things they have, their Religion eſtabliſhed by Law, and their Properties, I doubt the caſe may be altered; and though every body will not ſpeak it out, yet moſt may ſay in their hearts, Let him go, if he cannot defend himſelf. It is enough in conſcience patiently to bear ſo bad a Prince, but a little too much to venture their Lives and Fortunes to keep him in the Throne to oppreſs them; this is againſt Reaſon and Nature, and I know no Law of God which requires it: A Subject, and a Soldier; to Obey a Prince, and to Fight for him, are two things; and to be a Subject of any Prince, does not either by the Laws of God or Man, neceſſarily make him a Soldier.

But have we not ſworn to the King, his Heirs and Lawful Succeſſors, to defend and maintain his Perſon, Crown, and Dignity? And are we not bound by this Oath?

I anſwer, 1. I grant it is ſo; but then we muſt diſtinguiſh two parts in this Oath: 1. The Natural Duty of Subjects, which is Faith and true Allegiance, or Obedience and Submiſſion to the Government of the King. 2. That Duty and Obligation which is ſuperindu-

ced by Law, to maintain and defend the King's Right to the Crown, and all the Dignities and Prerogatives of it, which is now made a part, not of our Natural, but Legal Allegiance.

The reason of the thing tells us, That this is not an Arbitrary, but real Distinction; and then, tho our Natual and Legal Allegiance be both included in the same Oath, they are of a distinct Consideration.

Natural Allegiance, or Obedience and Subjection to Government, is due to the King, considered in the actual Administration of Government, and no otherwise, because it can be paid only to the Regnant Prince; and it is due to all Kings, who are setled in the Government; for it is due to Government, and for that reason, to the Prince who governs.

Legal Allegiance, or Maintenance and Defence, is due only by Law, and therefore can oblige no further than Human Laws do, which must always give way to the Laws of God; and therefore Natural Allegiance (in case of a Competition) vacates the Obligation of Legal Allegiance and Oaths; as the Laws of God and Nature must take place of all humane positive Laws and Oaths. If then, I have sworn to maintain and defend my King, who has a Legal Right to the Throne, whatever is meant by this Maintenance and Defence, if he happen to be dispossessed of his Throne, and another Prince placed there, whom, in Reverence to the Authority of God, I am to obey, and submit to, without Resistance; I am absolved from my Legal Allegiance to maintain and defend my ejected Prince, because I cannot do it without violating that Allegiance, which by the Laws of God I owe to the Regnant Prince; for I cannot defend the dispossessed Prince, whom I have sworn to defend, without opposing and resisting the Regnant Prince, whom by the Laws of God I am bound to obey.

2. This Legal Allegiance, *or Maintenance and Defence*, is Sworn only to a King in Possession, and signifies no more, than to maintain and defend him in the Possession of the Throne, as having a Legal Right to it: We can legally take this Oath only to a King, who is in Possession, for it must be administred by his Authority; and the Obligation of Oaths must not be extended beyond the necessary Signification of Words; now to maintain and defend the King's Person, Crown, and Dignity, and to restore him to his Throne, when he is dispossessed, are two very different things; and therefore he, who Swears to maintain and defend, is not by virtue

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of that Oath obliged to reſtore; while a Prince is on the Throne, Subjects are in a capacity to defend and preſerve him there; and therefore may oblige themſelves to it, and there may be Reaſons why this ſhould be exacted from them; but in ordinary Caſes, if they cannot defend the King in Poſſeſſion, there is little likelihood they ſhould be able to reſtore him; and therefore no reaſon, that Subjects ſhould bind themſelves by ſuch an Oath.

To venture our Lives and Fortunes to preſerve the King's Perſon and Government, while he is in Poſſeſſion, is reaſonable enough; becauſe it is a real Service to our King and Country, to prevent unjuſt Uſurpations, which overturn the Government, and often unſettle or deſtroy the Laws, and with them the Rights and Liberties of Subjects, as well as the Right of the King; but to Swear to do our utmoſt to reſtore the King, when he is diſpoſſeſſed, is to Swear never to ſubmit to uſurped Powers, but to take all Opportunities to overthrow ſuch Governments to reſtore our King, which is contrary to our Duty, when God removes one King, and ſets up another; which expoſes our Lives and Fortunes to ruin, when we cannot ſerve our King by it; which provokes ſuch new Powers, if they be not more merciful, to ſecure themſelves by rooting out ſuch ſworn Enemies to their Government; and then the Conſequence of this Oath, is, That if our King be driven out of the Land, we will follow him into Baniſhment, or venture being hanged at home; that we will diſturb all Governments, and raiſe Rebellions, and Civil Wars, if we can, to reſtore our King, tho with the utter Ruin and Deſtruction of the Nation. I believe, ſhould all this be expreſſed in an Oath, there is no Man in his wits would take it, for the ſake of the beſt Prince that ever ſway'd a Scepter; and how unreaſonable then is it, to expound an Oath to ſuch a Senſe, as no Man would have taken it in, had it been expreſſed? However it appears, that there is ſuch a vaſt difference between *maintaining and defending* a Regnant Prince, and *reſtoring* a Diſpoſſeſſed Prince, that to *reſtore* is not neceſſarily included in *maintaining*.

But we Swear not only to the King, but to his Heirs, and Lawful Succeſſors, who are not in Actual Poſſeſſion; and therefore that muſt ſignify to give them Poſſeſſion: Right! if the King dye poſſeſt of the Crown, we Swear to maintain the Succeſſion, and to own the true Heir, for our King; but if the King be driven out of Poſſeſſion, and his Heirs with him, and another Prince poſſeſſed of the

Throne,

Throne, this Oath can no more oblige us to set the Banished Heir upon the Throne, than to restore the Banished King.

But by swearing to the Heirs, and *Legal* or *Lawful Successors*, we Swear not to own, or submit to any Prince, who is not the Legal Heir. That I deny; we Swear, if you please, not to make it our Act, not to set up any Prince, who is not the right Heir; and we Swear to own the right Heir, if he gets Possession; but we do not Swear not to submit to any Prince, who gets into Possession, and is setled in the Throne without a Legal Right; the words signify no such thing, no more than Maintaining and Defending, signifies Restoring.

3. I observe further, That this Maintenance and Defence, which we Swear of the King's Person and Crown, is only a Legal Maintenance and Defence; for the Law will not justify, much less does it command any illegal Defence; and therefore a Legal Oath can oblige us only to a Legal Defence.

This is true, with reference to the *Cause*; for we are not bound to defend the King against Law, or when he Subverts the Laws, and Liberties, and the Legal Established Religion of the Kingdom, by Illegal Methods. A Sovereign Prince must not be resisted by force, nor must he be assisted and defended against Law; for tho the King be unaccountable, yet his Ministers and Instruments are not; and no Man is bound to serve or defend the King in that, for which by the Law of the Land he may be hanged for a Traytor; and this in a limited Monarchy, sets Bounds to Sovereign Power; for unless Subjects will betray their own Liberties, and venture to be hanged for it, such a Prince cannot hurt them; and the late Revolution teaches us, (and all Princes ought to take warning by it) how easily a Prince is ruined, when he has forfeited the Affections, and the Legal Defence of his Subjects, by the Exercise of an Illegal and Arbitrary Power; and if the Oath of Allegiance does not oblige Subjects to defend a Prince in the Exercise of an Arbitrary Power; I think, it much less obliges them to restore such a Prince, and Arbitrary Power with him.

But that which I mean by a Legal Defence, (let the Cause be what it will) is such a Defence, as the Law requires all Subjects to give their King; for a Legal Oath can require no other Defence than the Law requires.

Now the only Legal Defence, wherein all Subjects are concern'd, is either the *Militia*, or the *Posse Comitatus*, which are in the Power of

of the Regnant Prince, and cannot defend a Prince who is out of Poſſeſſion; and therefore, if this Oath means only a Legal Defence, it muſt be confined to the King while he is in Poſſeſſion, and has the Power of the Kingdom in his hands; for I cannot defend a Diſpoſſeſſed Prince by ſerving in the *Militia*, or *Poſſe Comitatus*, which is always in the Power of the Regnant Prince.

But a Prince may raiſe an *Army* for his Defence, beſides the *Militia* of the Country; and this he may do, when he is out of Poſſeſſion, and Loyal Subjects ought chearfully to ſerve him in it.

Now here is a great Queſtion, which I am not Lawyer enough to decide; Whether a Commiſſion granted by a King out of Poſſeſſion, be a Legal Commiſſion; but be that how it will, I am ſure, there is no Law that requires all Subjects to receive Commiſſions from the King, tho he be in Poſſeſſion of the Government, nor to Liſt themſelves Soldiers in his Army; and therefore this is no part of that Legal Defence which we Swear. All that Legal Defence which we Swear to the King, can be paid only to the King in Poſſeſſion; and what we have not Swore, we are not bound to by the Oath of Allegiance, which is the only thing we are now inquiring after. This the whole Nation, both Prince and People have, ſufficiently acknowledged, by making and receiving Addreſſes of *Lives and Fortunes*, which is ſuppoſed to ſignify ſome other defence than the Oath of Allegiance obliged them to; and therefore, were not of the mind of thoſe Men, who think their Sworn Allegiance binds them to reſtore the King, when Diſpoſſeſſed of his Throne, at the Expence of their Lives and Fortunes.

4. It is worth conſidering alſo; That the Oath of Allegiance is a National Oath, and therefore the defence or maintenance we ſwear, is National, that is, to join with our Fellow-ſubjects in defending the King's Perſon and Crown: for ſingle Subjects cannot do this by themſelves, and the way to oblige them all, is to impoſe a National Oath to be taken by all Subjects.

Now ſuch Oaths as theſe oblige every particular Man to do no injury to the King's Perſon or Crown, not to enter into Plots and Conſpiracies againſt him; and as for actual defence, chearfully to venture his Life and Fortunes with his Fellow-ſubjects to preſerve the King. But in caſe the great Body of the Nation abſolve themſelves from theſe Oaths, and depoſe their King, and drive him out of his Kingdom, and ſet up another Prince in his room, it is worth

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considering, Whether some private men, it may be but a little handful, are still bound by their Oath, to make some weak and dangerous attempts, and to fight for their King against their Country; certainly this was not the intention of the Oath, for it is a National, not a private Defence, we swear; and therefore a general revolt of a Nation, though it should be wicked and unjustifiable, yet it seems to excuse those, who had neither hand nor heart in it, from their sworn defence of the King's Person, and Crown, and to make their compliance with the National Government innocent and necessary. For an Oath to fight for the King, does not oblige us to fight against our Country, which is as unnatural, as to fight against our King. The sum is this; God, when he sees fit, can remove Kings, or set up Kings, without any regard to human Right, as being the Sovereign Lord of the World, who rules in the Kingdoms of Men, and giveth them to whomsoever he will: but Subjects, in setting up, or removing Kings, must have regard to Legal Right; and if they pull down a rightful King, and set up a King without right, (unless the Constitution of the Government in some Cases should allow it) greatly sin in it, especially when they have sworn the defence of the Legal Right, and Legal Succession: but the Duty and Allegiance of Subjects does not immediately respect Right, but the actual administration of Government, when there is a setled Government in a Nation; for that is God's Authority, which must be obeyed: no man must swear away this, no more than any other part of his Duty; and no man does swear away this by the Oath of Allegiance, as I have already shown.

Objection. But it will be farther objected, That if this Doctrine do not take away the Legal Right, yet it makes it impossible for such an injur d Prince to recover his Right, when all his Subjects have sworn Allegiance to a new Prince, and therefore can no longer assist him.

Answer. I answer; This may be called a difficulty in Providence, if you please, but it is no difficulty to the Subject, if he pursue his Duty in it, unless a passionate affection for the dispossessed Prince make it a difficulty: but such a misfortune as this, can rarely happen to a beloved Prince; and when Subjects are overpowered by force, and can neither defend themselves, nor their Prince, there is no remedy left but to yield to necessity, and leave every thing else to the Divine Providence.

The Divine Providence has ways and methods of removing Kings, and setting up Kings, which we are not aware of, nor concerned

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to know, becauſe it is no part of our duty: No man could have foreſeen, how *Ch.* II. ſhould have returned, who had a powerful Army againſt him; or *J.* II. be driven out of his Kingdom, at the Head of a powerful Army, without ſhedding of blood. All the Plots and Conſpiracies of the Loyal Party were vain, and had no other effect, but to bring ſome worthy and gallant Men to an unhappy end; but what they could not do, God did without them; and all ſuch Caſes we muſt leave to God.

But does not this encourage daring and ambitious Spirits to graſp at Crowns, and invade their Neighbours, when they know that Succeſs gives them Sovereign Authority, and obliges Subjects, notwithſtanding all former Oaths, to pay all Duty and Allegiance to them? *Objection.*

Ambitious and daring Spirits need no other encouragement but Power to graſp at Crowns; and if they have this, they value no more: promiſe them but Succeſs, and they will try, whether Subjects will obey or not. I dare ſay, ſuch men never took it into conſideration, whether Subjects would think themſelves bound in Conſcience to obey them, in caſe they prevailed; they ſeldom trouble themſelves about Conſcience, but truſt to other Arguments to ſecure their Thrones, when they have once gotten them. And if they take this Doctrine all together, as they muſt do, if they encourage their Ambition, by Reaſon, and Principles, it will give no encouragement to Ambitious Spirits without a great doſe of Enthuſiaſm: For if the Kingdoms of the World be diſpoſed by God, and no Art or Power can place any Prince on the Throne, but by God's appointment, unleſs they can flatter themſelves, that God has ordain'd them to be Kings, it will check all their ambitious Attempts, which God can ſo eaſily defeat. *Anſwer.*

But if this Doctrine ſhould prove inconvenient to Princes, and dangerous to their Thrones; I am ſure the contrary Doctrine is much more dangerous to Subjects, when any ſuch Revolution happens; for it ſacrifices them to the rage and fury of Conquering and Reigning Princes, when they are obliged by Principles of Conſcience to oppoſe and diſown their Government, which it is folly to think any Prince will endure; and though I have as great a reverence for Princes as any man, I do not think the Right and Intereſt of any Prince ſo conſiderable, as the Safety and Preſervation of a Nation, and the Lives and Fortunes of all his Subjects.

In a word, The Objectors do not think it a sufficient Confutation of the Doctrine of Non-resistance, and Passive Obedience, to say, That this puts it into the King's power, to invade the Laws and Liberties, the Lives and Fortunes, of his Subjects at pleasure; and yet there is more danger of this from an Ambitious and Arbitrary Prince, than there is, that the Doctrine of Obedience and Submission to the Governing Powers, should encourage Ambitious Spirits to invade their Neighbours Thrones; the Divine Providence takes care of all such extraordinary Cases, and there we must leave them.

Object. But have not Pyrates and Robbers as good a Title to my Purse, as an Usurper has to the Crown, which he seizes by as manifest force and violence? Does not the Providence of God order and dispose all these events? And are we not bound then as much to submit to Pyrates, as to Usurpers?

Answ. The dispute is not about human and legal Right in either Case, but about Authority, which is the only reason of a conscientious subjection; now no Man pretends, that Thieves and Pyrates have God's Authority, to which we must submit; but the Scripture expressly tells us, That Kingdoms are disposed by God; That all Power is of God; and therefore when any Prince, by what unjust means soever, with respect to Men, is placed in the Throne, and setled there, He is advanc'd by God, is God's Ordinance, God's Minister, and must be obeyed for Conscience sake: And therefore the outrages of Thieves and Pyrates are very impertinently alledged in this Cause. They have force and violence, which every Man must submit to, when he cannot help it; but Soveraign Power is God's Authority, though Princes may be advanced to it by no honester means, than Thieves take a Purse, or break open my House, and take my Money, or Goods. The beginnings of the four Monarchies were no better, and yet their Power was God's.

Object. But did not *Jehojada* the High-priest anoint *Joash* the King's Son, and depose and kill *Athaliah*, who had usurped the Throne for six years? And did he think then, that an Usurper's possession of the Throne, required the Allegiance and Fidelity and Obedience of the Subject?

2 Chr. 23. 1, 2.

Answ. 1. All that this Story amounts to, is no more than this, That when the Legal and Rightful Heir is actually possessed of his Throne, Subjects may return to their Allegiance, and by the Authority of their King prosecute the Usurper; for *Joash* was first anointed and pro-

proclaimed, before any one ſtirred a finger againſt *Athaliah:* Now this is a very different Caſe from raiſing Rebellions againſt a Prince, who is in the poſſeſſion of the Throne, to reſtore an ejected Prince.

2. But this was a peculiar Caſe; for God himſelf had entailed the Kingdom of *Judah* on the poſterity of *David*, and therefore nothing could juſtify their ſubmiſſion to an Uſurper, when the King's Son was found, to whom the Kingdom did belong by a Divine entail; and by this, *Jehojada* juſtifies what he did, *Behold, the King's ſon ſhall reign, as the Lord hath ſaid of the ſons of David.* V. 3. Now when God has entailed the Crown by an expreſs declaration of his Will, and nomination of the Perſon, or Family, that ſhall Reign (as it was in the Kingdom of *Judah*) Subjects are bound to adhere to their Prince of God's chuſing, when he is known, and to perſecute all Uſurpers to the utmoſt, and never ſubmit to their Government; but in other Kingdoms, where God makes Kings, and entails the Crown, not by expreſs nomination, but by his Providence, the placing a Prince in the Throne, and ſetling him there in the full adminiſtration of the Government, is a reaſon to ſubmit to him, as to God's Ordinance and Miniſter.

Object. But it is further urged, That according to theſe Principles, all Kings are ſet up by God, and yet God expreſly charges *Iſrael* with making Kings without him, *Hoſea* 8. 4. *They have ſet up Kings, but not by me; they have made Princes, and I knew it not.*

Anſw. Now 1. This is not true as to all the Kings of *Iſrael*, after their ſeparation from the Tribe of *Judah*; for ſome of the Kings were ſet up by God's own appointment and nomination, as *Jeroboam* and *Jehu*, and their poſterity: So that this can be true only of thoſe Kings, who Reigned over *Iſrael* between the Poſterity of *Jeroboam* and *Jehu*, and after the Kingdom was taken from the Line of *Jehu.*

2. One of theſe Kings was *Baaſhah*, who ſlew *Nadab* the Son of *Jeroboam*, and made himſelf King without God's expreſs nomination and appointment, and yet God tells him, *I exalted thee out of the duſt, and made thee Prince over my people Iſrael.* 1 Kings 15. 27. 16. 2. And all the other Kings, who were not nominated by God, nor anointed by any Prophet, no more than *Baaſha* was, were yet ſet up by God, as he was.

3. The true Anſwer then is this: *Iſrael* was originally a *Theocracy*, as well as *Judah*; and though God allowed them at their requeſt

to have Kings, yet he reserved the appointment of them to himself; and therefore, as in the Kingdom of *Judah*, he entailed the Crown on *David*'s Posterity, so he appointed *Jeroboam* to be the first King in *Israel*, and they ought, when that Line was cut off, to have consulted God, and received his nomination, by his Prophets, of a new King; but instead of that, when *Jeroboam*'s Line, and *Jehu*'s, were cut off, who were the only Kings named by God, and anointed by his Prophets, they submitted to any, who could set themselves over them: This was a great fault in a people who were under the immediate Government of God; for hereby they fell out of the state of *Theocracy*, into the common condition of the rest of the World, where Kings are set up by the Providence of God, as *Baasha* was, but not by his appointment and nomination; which was the privilege of *Israel*, but which it seems they despised and neglected, as no privilege or favour; as great a Crime, as for *Esau* to contemn his Birth-right; and therefore are very justly reproved for it by God, and charged with it as a great crime, it being in effect, a renouncing their prerogative, of being God's peculiar People.

3*dly*, To justify this Doctrine of Obedience and Allegiance to the present Powers, there is an Argument, which I know some Men will not like, but must be a good Argument to those, who most scruple the new Oath; *viz.* That it is founded on the same Principle with the Doctrine of *Non-resistance* and *Passive-obedience*, and therefore both must be true, or both false; for it is founded on this Principle, That God makes Kings, and invests them with his Authority; which equally proves, That all Kings, who have received a Soveraign Authority from God, and are in the actual administration of it (which is the only evidence we have that they have received it from God) must be obeyed, and must not be resisted. Set aside this Principle, That all Soveraign Princes receive their Authority from God, and I grant that Non-resistance is nonsense; for there is no other irresistible Authority, but that of God. If God have given a Soveraign Authority to them, they are immediately his Ministers, and unaccountable to their Subjects; but if they receive their Authority from Men, and human Laws, I cannot imagine, that their Power is any more than a Trust, of which they must give an account to those who have entrusted them with it, according to those Laws, by which they were entrusted to exercise that Power; for whether there be any express provision made in the Law to call them

them to an account or not, the nature of the thing proves, that if they receive their Power from Men, they are accountable to them; for those who give Power, may take an account of the use and abuse of it.

I am sure St. *Paul*, who most expressly teaches this Doctrine of Non-resistance, joyns these two together, Obedience to the present Powers, and Non-resistance, and deduces them both from the same Principle, That all Power is of God: *Let every soul be subject to the higher powers, for all power is of God; the powers that be, are ordained of God; he therefore that resisteth the power, resisteth the ordinance of God, and they that resist, shall receive to themselves damnation.* Rom. 13.

And Bp. *Overal*'s *Convocation Book*, which is lately published, the principal design of which is to assert the irresistible Authority of Sovereign Princes, does as plainly assert this too, That all setled Governments, whatever their beginnings were, have God's Authority, and must be obeyed; of which, more above: For those wise Men, who sate in that *Convocation*, plainly saw the necessary connexion between Non-resistance, and Obedience to the present Powers; both which were equally resolved into the Authority of God, in removing Kings, and setting up Kings. So that Obedience and Allegiance to the present Powers, when they are once well setled among us, is so far from being a renouncing of the Doctrine of Non-resistance and Passive-obedience, that those who refuse to comply, must renounce the only Principle whereon that Doctrine is reasonably founded, and consequentially renounce the Doctrine it self.

4*thly*, To say, That when the Divine Providence has removed one King, and set up another, we must not own this new Prince, nor pay the Duty of Subjects to him, if he have no Legal Right, is to deny God's Authority to remove Kings, or to set up Kings against Human Law; for he cannot make a King, if he cannot oblige us to obey him; nor can he remove a King, if he cannot discharge us from our Allegiance to him; and those are bold men who will venture to say, in plain contradiction to Scripture, that God cannot remove or set up Kings.

5*thly*. Nay this limits the Providence of God, in governing Kings, and protecting Innocent and Injured Subjects: We say, the Punishment of Sovereign Princes, who are unaccountable to their Subjects, is peculiar to God, who is the King of kings; and thus we answer the Objections against Non-Resistance, That if Princes abuse their Power,

Power, God will punish them for it, and deliver their oppressed Subjects; but it seems God has no way to do this, but either to turn their hearts, or to take them out of the World; for he cannot remove them from the Throne; or if he does, the Subjects are never the better for it; for they must not own any other Prince, though he would be never so kind to them; but must bring new calamities upon themselves by an obstinate adhering to their old Prince, and provoking the new one: This seems very hard, that when God has actually delivered us, we must refuse our deliverance; That we will not allow God to deliver us, unless he do it by Law; as if God were as much confined to human Laws, as Men are: It is enough, methinks, if we suffer patiently, without violating the Laws to deliver our selves; but let God who is above all human Laws, deliver us what way he pleases.

6thly, That which is still more considerable, is the necessity of Government to preserve human Societies; for human Societies must not dissolve into a *Mob*, or Mr. *Hobbs*'s state of Nature, because the Legal Prince has lost his Throne, and can no longer govern. Bishop *Sanderson* tells us, That the end of Civil Government, and of that Obedience which is due to it, is the Safety and Tranquility of Human Societies; and therefore whatever is necessary and useful to this end, becomes our Duty; for the End prescribes the Means.

Quicquid enim finis alicujus gratia faciendum est, eatenus fieri oportet, in quantum ei fini consequendo necessarium vel utile videbitur. Civilis autem regiminis, ejusque quæ ipsi debita est obedientiâ, finis est, humanæ Societatis salus & tranquilitas. De Oblig. Consc. Præl. 5. Sect. 19.

And therefore this Great Man, and the most zealous *Loyalists*, do own it lawful for Subjects to pay some kind of submission, and compliance, to Usurped Powers. Let us then examine what it is they allow, and whether it answers the great End, which gives Law in all these Cases, The safety and tranquility of Human Societies.

Ibid. Sect. 16, 17, 18, 19. They grant then, that we may obey the Laws of such a Prince, who has no Right or Authority to make them, if they contain nothing which is sinful (which is an exception against all Laws, whatever Prince makes them) and may defend our Countrey against a Foreign Enemy, may administer Justice to reward the Good, and punish the Wicked, and preserve the Trade and Commerce of the Nation: but then we must have no regard to the Authority of the Prince, nor of his Laws; for he has no Authority, and his Laws do not oblige the Conscience; but we may thus far comply to preserve

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our ſelves, our Lives, and Fortunes, and Eſtates, and for the good of the Community, and out of gratitude to the Reigning Prince for his protection, and the many Bleſſings they enjoy under his Government; though a late *Writer* thinks this gratitude a little too much, and not owing to an *Uſurper*; which ſeems ſtrange; for I will thank any man, and make grateful Returns too of his kindneſs, who has power (whatever his Authority be) to do me hurt, and does me none, but a great deal of good. I am ſorry Loyalty, which is a very great Virtue, ſhould put men out of conceit with any kind or inſtances of Gratitude; which I think is not a leſs Virtue than that. But tho I greatly reverence the profound Judgment of Biſhop *Sanderſon*, I cannot be of his mind in this point; if the Safety and Tranquility of Human Societies requires any thing of us, it both requires and juſtifies a great deal more.

For 1. As he ſtates the matter, this deſtroys Civil Government, and a governed Society; for here is neither King, nor Subject, no Authority to Command, nor Duty to Obey; and I ſuppoſe no Man, who conſiders it well, will call this a Civil Government, or a Civil Society, to which Authority and Obedience is Eſſential: He would have a Civil Society preſerved, this is the fundamental Law of all; but he will allow no Authority to ſupport it, which is as vain a deſign, as to reſolve to maintain the Superſtructure, but to take away the Foundation. The Prince governs by force without Authority; the Subject obeys for fear or gratitude, without a ſenſe of Duty, which may laſt as long as the Prince has Power, or the Subjects are in good Humour, and no longer; and is this a ſure bottom, for the Safety and Tranquility of Human Societies? If Human Societies muſt be preſerved, then the neceſſities of Government give Authority to the Prince, and lay an Obligation of Duty on the Subject; if God will preſerve Human Societies, we muſt conclude, that when he removes one King out of the Throne, he gives his Authority to him whom he places there; for without Authority, Human Societies muſt disband; Power may tye them together a while, but can never unite them into a Civil Body, without the Bands and Ligaments of Duty and Conſcience.

2. For I would ask, Whether the care of my own Preſervation, and the publick Duty, and Gratitude to the Government for my Protection, do oblige me in Conſcience to obey and ſubmit to the Government, and the Prince who Governs, and to wiſh and pray for,

for, and do my utmost to endeavour their Prosperity? If it does, I see no difference between this and Allegiance; and what I am bound in Counscience to do, I may swear to do: If it does not, then I am at Liberty to disturb the Government, notwithstanding all my gratitude, when I can; nay, am under Obligation by my Allegiance to the Dispossessed Prince, to do it when I can; and how does this contribute to the Safety and Tranquility of Human Societies?

3. Suppose then the Government does not think its self safe, to leave all Men at Liberty to disturb it when they please, and when they have a promising Opportunity to do it, but should require an Oath of Fidelity from them, which, we see, is the universal Practice of all Governments; what shall Subjects do in this Case?

According to these Principles, no Subject, when his Rightful Prince, to whom he owed, or to whom he had sworn Allegiance (which the Bishop makes the same Case) is dispossessed, ought to swear Fidelity and Allegiance to any other Prince; and now, then let us suppose, that they all did their Duty, and refused this Oath, and the Prince had power enough to compel them; what must be the effect of this, but the utter Ruin and Destruction of the Nation? The Land, indeed, would remain as it was, and where it was, for that can't be removed; but the People of it must either be destroyed, or imprisoned, or transplanted into some Foreign Countries, as was formerly practiced in the *Eastern* Conquests, witness the *Ten Tribes*, who were carried away Captive, and the Country new peopled; and is not this a Dissolution of Human Society? And if the Preservation of Human Society, be the great ultimate end of Government, and will justify what it makes necessary, nothing can be a Duty, which if universally observed, must unavoidably in all such Revolutions of Government, destroy Human Societies.

For to say, That it can never be supposed, that all, or the greatest part of any Kingdom in such Revolutions will adhere to their Duty, and obstinately refuse to swear Allegiance to a new Prince, and that is sufficient to preserve the Nation, tho some few conscientious People suffer by it, does not alter the Case; for still, according to these Principles, Human Societies in such Revolutions cannot be preserved without Sin; for if all Men did their Duty, they must all be destroyed: Now, I believe it will be hard to perswade

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any conſidering Men, that that which in ſuch Caſes is neceſſary to preſerve a Nation, is a Sin; and that which will infallibly deſtroy it, is a Duty and Virtue; if we allow the ſafety and preſervation of Human Societies, to be the great Law of all.

4. I obſerve further, that as cautious as the Biſhop is, That we ſhould pay Obedience to Uſurped powers, without owning their Authority; yet he is forced to allow us to do ſuch things for the publick Good, as cannot be done without owning the Authority; as the Defence of our Country againſt a Foreign Enemy, and the Adminiſtration of publick Juſtice; for this muſt be done by Commiſſion from the King, and, I ſuppoſe, to take a Commiſſion from him, owns his Authority, and owns it to be a good Authority; for if they hang any Man either by Military Diſcipline, or Civil Juſtice, and have not good Authority for it, they are Murderers. The truth is, to exerciſe all the Acts of Civil Government, which are neceſſary for the Community, without owning the Authority of the Prince, in whoſe Name, and by whoſe Authority all is tranſacted, is a Riddle to me; if we muſt not own the Authority of the Prince, we muſt do nothing by his Authority, and then Civil Government in ſuch Caſes muſt ceaſe, and Human Societies diſſolve. So that the preſervation of Human Societies does of neceſſity force us to own the Authority, even of *Uſurped* Powers; and if the preſervation of Human Societies be the end of Civil Government, and the reaſon of that Obedience which we owe to Government, as the *Biſhop* aſſerts; then when an obſtinate Allegiance to the Diſpoſſeſſed Prince muſt diſſolve Civil Government, the reaſon of that Allegiance ceaſes, and therefore that Allegiance muſt be at an end; and when Allegiance to Uſurped Powers, is neceſſary to the preſervation of the Society, it muſt become a Duty.

5. The *Biſhop* reſolves all this into the preſumed Conſent of the ejected Prince, that his Subjects ſhould rather conſult their own ſafety by a modeſt compliance with the preſent Powers, than bring certain Ruin upon themſelves by an unſeaſonable Oppoſition: Now tho I confeſs, I lay no ſtreſs upon a preſumed Conſent; yet, if we will preſume, we ſhould preſume all that is reaſonable, that is, all that is neceſſary for the Preſervation of his Subjects, when he can govern them, and protect them no longer; and then we may preſume his Conſent to Oaths of Allegiance and Fidelity, when this is neceſſary to their preſervation; and I can very eaſily preſume, that Princes think this a leſs fault, than ſome Subjects do; they know *Ibid. Sect.* 21.

what they themselves expect from Subjects, where they have Power, whatever their Right be, and therefore cannot complain of their Subjects, if they pay it to another Prince, in whose Power they are; this is the Practice of the whole World, and Princes know it; and may as reasonably be presumed to allow it, as any other Act of Obedience and Subjection to Usurped Powers. And tho I will not meddle with that Question, Whether a King's leaving his Kingdom in a great Fright, without any one to Govern and Protect his Subjects, be to all intents and purposes an Abdication of the Government? Yet one may reasonably presume, that a King, who forsakes his Kingdom to consult his own Safety, will give his Subjects leave to consult theirs; if this will justify a King to save himself by leaving his Kingdom; why will it not justify Subjects, when their King has left them to submit and comply with the prevailing Powers, as far as is necessary to preserve themselves? That is, even by Oaths of Allegiance, if that be necessary: Self-preservation is as much a Law to Subjects, as to the Prince; and he is as much sworn to Govern and Protect his Subjects, as they are to Obey and Defend him; and if the necessities of Self-preservation absolve him from his Oath of governing and protecting his People; I desire to know, why the same necessity will not absolve Subjects from their Oaths to their Prince? Protection and Allegiance are not so reciprocal, as to be the necessary Conditions of each other; that if a Prince violate his Oath of Governing by Law, and instead of Protecting does Oppress his Subjects, Subjects are then freed from their Oath of Allegiance, and may take Arms against their Prince; for tho Protection and Defence are the Duties of Relatives, of a Prince and his Subjects; yet they are not necessarily such Relative Duties, as that neither of them can be performed unless both be. A Prince may govern by Law, and protect his Subjects, and yet in Fact they deny their Allegiance to him; and Subjects may pay their Allegiance to their Prince when he Oppresses them; these Duties may be distinctly and separately observed, and therefore do not in their own Nature, either infer or destroy each other. But Government and Allegiance are such Relatives, as do *mutuo se ponere & tollere*; the one cannot subsist without the other: if the Prince can't Govern, the Subject can't Obey; and therefore, as far as he quits his Government, he quits their Allegiance, and leaves his Subjects as he does his Crown, to be possessed by another, and must recover them both together.

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He may have a Legal Right to both, but he cannot actually have the Subjects Allegiance without the Crown; nor can Subjects pay him their Allegiance, without his being reſtored to the Poſſeſſion of his Throne, no more than they can obey, when he can't command; or ſubmit, when he has no Power to govern; or defend his Perſon and Crown, when he has withdrawn his Perſon and left his Crown. This is as certain as any Propoſition in *Logick*; and to extend Allegiance beyond the Actual Adminiſtration of Government, is to preſerve a *Relative* without its *Correlate*: for when one of the Relatives is loſt, the *Relation* is deſtroyed, and nothing but the Memory of it left.

7thly, Theſe Principles anſwer all the ends of Government, both for the ſecurity of the Prince and Subjects, and that is a good Argument to believe them true.

A Prince who is in Poſſeſſion, is ſecured in Poſſeſſion by them, (as far as any Principles can ſecure him) againſt all Attempts of his Subjects, who muſt reverence God's Authority in him; and ſubmit to him without Reſiſtance, though they are ill uſed.

They will not indeed ſerve the Revolutions of Government, to remove one King, and ſet up another; and if they would, Princes might be jealous of them; for whatever Service they might do them at one turn, they might do them as great Diſſervice at another: The Revolutions of Government are not the Subjects Duty, but God's Prerogative; and therefore it is not likely that he has preſcribed any certain Rules or Methods for the overturning and changing Government, which he keeps in his own hands, and which when he ſees fit to do it, he never wants ways and means of doing.

But when any Prince is ſetled in the Throne, by what means ſoever it be, theſe Principles put an end to all diſputes of Right and Title, and bind his Subjects to him by Duty and Conſcience, and a Reverence of God's Authority; which is the faſteſt hold he can poſſibly have of them; for thoſe whom Religion will not bind, nothing but Force can.

And therefore theſe are the only Principles which in ſuch Revolutions can make Government eaſie both to Prince and People; and if Government muſt be preſerved in all Revolutions, thoſe are the beſt Principles which are moſt for the eaſe and ſafety of it.

But on the other hand, ſuch an immoveable and unalterable Allegiance, as is thought due only to a Legal Right and Title, and

must be paid to none, but to a Legal and Rightful Prince, serves no ends of Government at all; but overturns all Government, when such a Prince is dispossessed of his Throne, how long soever he continue dispossessed: And what long *Inter-regnums* may this occasion, to the dissolution of Human Societies?

If you say that this is the best Principle to prevent all Revolutions of Government, when it is known, that Subjects are bound in Conscience not to submit to any Illegal and Usurping Powers; and this is very much for the peace and security of Human Societies; I answer,

1. If this Principle would prevent all Revolutions of Government, it is a demonstration against it, that it is a bad Principle, a meer Human Invention, which cannot come from God. For since God has reserved to himself his Sovereign Prerogative of removing Kings, and setting up Kings; since this is sometimes necessary for the preservation of the Church, and the deliverance of the Good from Oppression and Tyranny, and for the just Punishment either of King or People; it is impossible that he should give any such Laws to mankind, as shall debar him from the exercise of this Prerogative, in what way he pleases; yet it is certain God cannot make Kings, if he cannot oblige Subjects to obey them; and that he cannot do, if they must obey and submit only to Legal Kings.

2. It is evident, That this Principle was either unknown to the World before, (and that is an argument that it is not the natural sense of mankind), or else, That this Principle cannot prevent the Revolutions of Government; for there have been such Revolutions in all Ages, and I believe will be to the end of the World.

3. Since then such Revolutions will happen, such Principles as must dissolve Human Societies, when such Revolutions happen, or expose the most innocent and conscientious men to the greatest Sufferings, without serving any good end by them, cannot be true; for the end of Government is the Preservation of Human Societies, and therefore that can be no good Principle of Government, which in any turn of Affairs, if pursued, must dissolve Human Societies.

Nor can that be a true Principle, which at any time obliges honest men to lose their Lives, their Estates, their Liberties, in opposition to the Government of the Nation wherein they live, when they may preserve them all by Obedience and Submission to the Government: I am sure the Scripture teaches us to suffer patiently in Obedience

dience to Government, but not to ſuffer in Oppoſition to it: And when the very Reaſon of our Obedience to Government, is for the preſervation of Human Societies, and that we our ſelves may enjoy the Bleſſings of Government, it ſeems very ſtrange to extend this Duty to the overthrow of Human Societies, and to deny our ſelves the Security and the Bleſſings of Government; which is to extend a Duty to ſuch caſes, as contradict the only Reaſon, whereon that Duty is founded.

It is true, we muſt in all caſes be contented to ſuffer in doing our Duty; for we muſt chuſe rather to ſuffer than to ſin; and it is no Argument that any thing ceaſes to be my Duty, becauſe it expoſes me to Suffering: But then we muſt be very ſure that it is our Duty; that it is expreſly enjoyned us by the Laws of God or Nature, before we venture to ſuffer for it: But when we are to learn our Duty, not from any expreſs Law of God or Nature, but from the Reaſon and Nature of things, it is a ſufficient Argument, that is not my Duty, which will expoſe me to great Sufferings, without ſerving any good end; nay, which expoſes me to Sufferings, for contradicting the natural end and intention of that Duty, for which I pretend to ſuffer.

4. But let us grant that this Principle is the beſt Security to the Rights of Princes; is the Right of any Prince ſo Sacred as to ſtand in competition with the very being of Human Societies, and the ſafety and preſervation of all his Subjects? And muſt we then defend a Prince's Right, with the deſtruction of the Nation, and the Ruin of all his Subjects? Which is moſt neceſſary, That the Nation ſhould be governed, or, That ſuch a Prince ſhould govern it? And if he be driven out of his Kingdoms, and cannot govern, muſt we then have no Government? Or how ſhall the Nation be governed, if Subjects are bound in conſcience to obey, and pay Allegiance to no other Prince? This is to make all mankind the Slaves and Properties of Princes; as if all men were made for Princes, not Princes for the government of men.

This, I think, is abundantly ſufficient to juſtifie our Obedience and Allegiance to the preſent Powers, though it ſhould at any time happen, that the Legal and Rightful Prince ſhould loſe his Throne.

But there is a great prejudice againſt all this; for ſo I call it, rather than an Objection; for there is no Argument in it, nor can it be formed into an Argument; *viz.* that this will equally ſerve all Revolutions of Government, whatever they be: Upon theſe Principles we

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might submit and swear to a *Rump Parliament*, or to another *Protector*, or to a *Committee of Safety*, or whatever else you please: And yet under that Usurpation, the Loyal Nobility, Gentry, and Clergy, thought themselves bound in Conscience to oppose that Usurpation at their utmost peril; And shall we Arraign them all, as resisting God's Ordinance by their opposition to those Usurped Powers, and their attempts to restore their King to his Throne?

This, as I observed, is a great prejudice, but no Argument; for if these Principles be true, and according to these Principles they might have complied with those Usurpations; that they did not, is no confutation of them.

But yet, I suppose, all Men see a vast difference between these two Cases; it is evident those Loyal persons, both of the Clergy and Laity, who suffered in the former Cause, and have now complied with the present Government, think there is a vast difference between them; and must think themselves more reproached and injured by such a Comparison, than by such Principles as justify their present compliance: And the great Body of the Nobility, Gentry, and Clergy, who have sworn Allegiance to their present *Majesties*, would take it very ill to be thought less Loyal than those were, who suffered for King *Charles* I. and II. under those Usurpers; and therefore they also must apprehend a vast difference between these two cases.

But what is it that makes this difference? If you will allow the supposition, That the Rightful King is dispossessed; and that in such a case it is lawful to comply with any Government, which becomes the setled Government of the Nation.

I answer; The difference is very great upon all accounts; and that no man may wonder at the obstinate Loyalty of those days, and the easie and ready compliances now, (from whence some men conclude a renouncing the Principles of the old Church-of-*England*-Loyalty, to the great scandal of Religion), I shall show the difference upon many accounts; and all together will be more than answer enough.

1. First then, The great Villanies of those days, in an open and bare-fac'd Rebellion, persisted in after the most Gracious Offers and Condescentions; and in the Barbarous Murder of one of the best Princes in the World, was enough to prejudice wise and good men, against all compliances, though they had been lawful; for who that could possibly avoid it, would submit to such men?

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2. The barbarous Uſage the King's Friends met with, made a Submiſſion and Compliance uſeleſs and impoſſible: Thoſe who had fought for their King, or expreſſed any diſlike of thoſe Proceedings, whom they had any jealouſie or ſuſpicion of, or whoſe Eſtates they had a mind to poſſeſs themſelves of, were plundered, ſequeſtred, impriſoned, forced to ſculk and hide at home, or flie abroad, to preſerve their Lives and Liberties.

3. *Biſhops*, *Deans*, and *Prebendaries* were turned out, and their Lands and Revenues ſold; the Loyal Clergy were *Malignants* for what they had done; and had no way to keep their Livings, eſpecially if they were of any Value, but by renouncing the Church of *England*, as well as by Submiſſion to that Government, which I believe, notwithſtanding their ready compliance in taking the Oaths, the Clergy at this day would more univerſally have refuſed, than they did then.

4*thly*, Another difficulty was, That the whole Government both of Church and State was overturned, which was the Fundamental Conſtitution of the Nation: The King was not only Murdered, and the Rightful Heir driven out of the Land, but the Monarchy it ſelf was deſtroyed, and neither King, Lords nor Commons, left; but a few of the Houſe of Commons, who by Force and Power had turned the reſt out of doors, undertook to govern all, in the name of the Commons of *England*; which was ſuch an Invaſion on the Rights and Liberties of their Countrey, (which are as ſacred as the Rights of the King), as required the utmoſt oppoſition that could be made. And it may be, if it be well conſidered, the Defence of Monarchy, and the Rights and Prerogatives of the Crown, will appear a very material part of the Oath of Allegiance, which may bind Subjects when the Perſon of the King is changed; and may make them think themſelves more obliged to reſtore ſuch a Prince, when they cannot reſtore Monarchy, and the Ancient Laws and Government of the Nation without him.

5. And moreover it is plain, That their Government was never ſetled; it was frequently changed, and new modelled, which was no Argument of Settlement; and which is more than that, they had not a National Conſent and Submiſſion.

Men, who were forced, ſubmitted to force; but the Nation did not by any National Act ever own them; for I think the *Rump-Parliament*, who were the Uſurpers themſelves; or ſome little packt *Conventicles*, rather than *Parliaments*, could not be called the *Repreſentatives* of the Nation.

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This seems to be muchlike the Case which *Bishop* Overal's *Convocation-Book* mentions in relation to *Antiochus*; who had by force kept the *Jews* in subjection for some years; and yet when *Mattathias* took Arms in defence of their Religion, they justify this Action by saying, That the Government of *Antiochus* was not setled among them, either by *Submission or Continuance*; that is, tho People were forced to submit to Power, his Government was not owned by any Publick, National Submission; and in such Cases a long continuance is required to settle a Government; whereas a National Submission settles a Government in a short time; as we may conclude from what they tell us of the Settlement of *Alexander*'s Government among the *Jews*, who was but a very little while with them; but *Jaddus* the *High-Priest*, and the Governing-part of the Nation submitting to him; this setled his Government in a few days.

This shows how unlike all this was to our present Case in every particular; that those who thought it their Duty never to submit to that wicked Usurpation, are now satisfied, they may submit with a good Conscience to their present *Majesties*.

In our present Case, all things are quite contrary to what they were in the former; every thing concurred to make the Nation fond of such a Change, and very easy under it.

King *James*, more, I hope, by following ill Counsels, than by his own Inclination, had effectually removed all Prejudices and Objections against such a Revolution, excepting the Obligations of Duty and Conscience.

In the late times of Rebellion and Usurpation, all the Friends of Monarchy, and of the *English* Government, and of the Church of *England*, and of the Liberties of their Country, and of their own Honours and Fortunes, were bound in Interest to take all Opportunities to restore the King In our late Revolution, the very same Reasons and Interests disposed all Men to be very well contented to part with their King, if they had known how to do it honestly; for the Continuance of his Government, by the bold Steps, and extraordinary Methods he had taken, gave them great Apprehensions that all these were in danger, even the Rights and Prerogatives of the Crown it self (the preservation of which was a main end of the Oath of Allegiance) by his Submission to the *See* of *Rome*, and rejecting the Oath of *Supremacy*, and as far as he could, absolving his Subjects from it; and yet in that Oath alone, we Swear to the *Lawful* Successor, in Opposition to the pretences of the Bishop of *Rome*, to depose, and set up Kings at pleasure for the Service of the Church. This

This helpt ſome Men eaſily to abſolve themſelves from the Obligation of their Oaths; for they could not think, that Oaths, which were made and impoſed for the Preſervation of a *Proteſtant* Prince, and the Proteſtant Rights and Liberties of Church and State, could oblige them to defend and maintain a Prince in his Uſurpations, as they thought, on both.

This made his Subjects, and even his Army deſert his Service, when the Prince came with a Foreign Force; and this made it neceſſary for him to leave the Kingdom, and to leave his Subjects in the Hands of the Prince; which made an eaſie way for the Prince to be placed on the Throne.

Now not to diſpute the legality of all this, here was nothing ſo formidable, as to prejudice an honeſt Man againſt ſubmiſſion and compliance, as there was in the late times of Rebellion; nothing that could reaſonably hinder a compliance, but an Opinion, that we muſt never pay Allegiance to any but a Legal King; and poſſibly had that Point been waved; no Proteſtant would have diſputed a quiet and chearful ſubmiſſion to the Government.

To fight againſt a King, and not to fight for him, I think are two very different things; and when Kings make it impoſſible to fight for them, without fighting againſt the Religion and Liberties of our Country, they may thank themſelves, if their Subjects cannot defend them. This is a dangerous ſtate Princes bring themſelves into, eſpecially where there are different Perſuaſions in a Nation: when ſome Men think, they may lawfully defend their Religion and Liberties againſt the Uſurpations of their Prince; and others think, they are not bound to defend and maintain their Prince in his illegal Uſurpations on their Religion and Liberties; for a little oppoſition without any defence will quickly ruin any Prince. To take a Crown from a Prince, and his Liberty and Life with it, and to ſuffer him to leave his Crown if he pleaſes, and to deſert his Government, are two very different things.

I cannot indeed think (neither do I believe, that any body elſe does) that for a King to leave his Crown and Government in a fright is in all caſes neceſſarily to be interpreted ſuch an Abdication as is equivalent to a voluntary Reſignation; whereby he renounces all future Right and Claim to it. But if he have reduced himſelf to ſuch a ſtate, that he is forced for his own pre-

ſervation to leave his Kingdom and Government; it is plain, that in ſome ſence he leaves his Throne vacant too; that is, there is no body in it, no body in the actual Adminiſtration of the Government.

Thus far I think Subjects may be very guiltleſs, who do not drive the King away, but only ſuffer him quietly to eſcape out of his Kingdoms; for this is no *Rebellion*, no *Reſiſtance*, but only *Non-Aſſiſtance*, which may be very innocent: for there are ſome caſes, wherein Subjects are not bound to aſſiſt their Prince; and if ever there were ſuch a caſe, this was it.

What then ſhall Subjects do, when the King is gone, and the Government Diſſolved, the People left in the Hands of another Prince, without any Reaſon, or any Authority, or any formed Power, to oppoſe him? The Government muſt be Adminiſtred by ſome body, unleſs we can be contented, that the Rabble ſhould Govern.

But I ſhall not meddle with that Interval, between the going away of the King, and the Prince's coming to the Throne; but only conſider him as placed in the Throne, and ſettled there. And now we can find no alteration in the Ancient Goverment of the Nation, but only the exchange of Perſons; and all things concur to make this a very advantageous and acceptable Change, excepting ſuch difficulties, as uſually accompany ſuch Revolutions.

The *Monarchy* is the ſame ſtill, and the *Three Eſtates* of the Nation the ſame; the Church of *England*, and the Laws and Liberties of the Nation ſecured; and no proſpect of ſecuring them by any other means: ſo that here is nothing to prejudice any Man againſt the preſent Government, or to make the Reſtoration of the diſpoſſeſſed Prince neceſſary, as there was in the late Uſurpation, but only a miſtaken Notion of Allegiance to that Prince, whom we ſuppoſe to have the legal Right though he be diſpoſſeſſed, and another Eſtabliſhed in his Throne; which I have already proved to be a miſtake.

But not to diſpute the legal Right (which is nothing to my preſent purpoſe) here is a ſettled Government, which was not in the former Caſe.

Their preſent *Majeſties* are in the full Poſſeſſion of the Throne, and Adminiſtration of the Government by a National ſubmiſſion and conſent; for though ſome Men diſpute, whether a Convention of the Eſtates, not called by the Kings Writ be a legal Parliament,

Parliament, yet all Men muſt confeſs, that they are the Repreſentatives of the Nation; or elſe a Nation can have no Repreſentatives, when it has no King in the Throne, or when there is any diſpute about the Title to the Crown.

Now, though this might be improved farther, I ſhall content my ſelf only to ſay; that the conſent and ſubmiſſion of the Convention, eſpecially when confirmed by ſubſequent Parliaments, is a National Act, and makes a Settlement of the Government, eſpecially ſince the generality of the Nation have ſo willingly and chearfully ſubmitted, and bound their Allegiance by Oath; which is a very different thing from ſubmitting to mere force, when the inclination of the Nation ſtands bent another way; when there is nothing but mere force, it may admit ſome diſpute, when the Government is ſettled; but though in ſome caſes, it may be hard to determine, when the Government is ſo ſettled, as to make Allegiance due; this is no reaſon to deny Allegiance, when there is a viſible Settlement. If this be not a ſettled Government, I know not what is; I am ſure, we have reaſon to pray for the continuance of it; when nothing can unſettle it, but ſuch a Power, as will overturn our Religion and Liberties with it. It is indeed commonly ſaid, as I obſerved before, that the ſubmiſſion of the People without the ſubmiſſion of the Prince, cannot transfer the Government; by which they may mean the legal Right of Government: Now to avoid unneceſſary Diſputes, ſuppoſe this were true; yet the ſubmiſſion of the People, when their Prince has left them, if it cannot give a legal Right to another Prince, yet it may give an actual Settlement to him; and that is all we are enquiring after. This I think is a ſufficient anſwer to that odious Compariſon between the late Uſurpations, and this preſent Revolution.

I ſhall conclude the whole with anſwering an Objection, which many, who refuſe the Oaths, place great confidence in; and that is from the Laws of the Land: In all ſuch caſes as theſe, the Laws, they ſay, are the meaſure of our Duty, and the Rule of Conſcience, and therefore we muſt own no King, but whom the Law owns to be King; that is, in an Hereditary Monarchy, the right Heir: and to pay and ſwear Allegiance to any other Prince, though poſſeſſed of the Throne, when the rightful King is diſpoſſeſſed, or the right Heir living, is contrary to our duty to God, becauſe contrary to the Laws of the Land. Object.

Answ. 1. In answer to this I consider; this is no real Objection against any thing, I have said; but all that I have said, if it prove true, is a sufficient answer to this. The Laws of the Land are the Rule of Conscience, when they do not contradict the Laws of God: but when they do, they are no Rule to us; but their obligation must give place to a Divine Authority. Suppose then there were an express Law, that the Subjects of *England* should own no King, but the right Heir; and notwithstanding this Law (as it will sometimes happen, and has often happened in *England*) a Prince who is not the right Heir, should get into the Throne, and settle himself there: If the Divine Law in such a case, commands us to pay all the obedience and duty of Subjects, to a Prince in the actual Possession of the Throne, and the Law of the Land forbids it, which must we obey, the Law of God, or the Law of the Land? This, I think is no dispute; and therefore it is in vain to urge the Laws of the Land in any case, where we are under a Superior Authority: let them first prove that no King is set up by God against the Laws of the Land; and then I will confess, we must own none but legal Kings, for we must own no Kings, whom God does not make, and who have not Gods Authority.

2. The *English* Monarchy is Hereditary, and the lineal Heir has the legal Right to the Crown; grant this: but still we must consider, how far this is a Law to all private Subjects; how far every Subject is bound in Conscience by this Constitution, to give the Possession of the Crown to the right Heir, and not to suffer any one else to take it; or if he do, not to pay Allegiance to him, or own him for his King. What Law is there, that says this? And I think, the reason of the thing does not prove it. The Law does not refer the Cognizance of such matters to private Subjects; and therefore they are not by Law bound to take care of it, and I know nothing but Law can bind us to a legal Constitution. Legal Rights must be determined by a legal Authority; and there is no Authority can take Cognizance of the Titles and Claims of Princes, and the disposal of the Crown, but the *Estates* of the Realm: They indeed are obliged to take notice of the legal Descent of the Crown, and if through mistake or any other cause, they set the Crown upon a wrong Head, they must answer for it; but private Subjects, who have no legal Cognizance of the matter, are bound by no Law, that I know of, to disown

a King,

a King, whom the *Estates* have owned, though they ſhould think the Right is in another. If Authority may not over-rule private Subjects in theſe caſes, even againſt their own private Opinions, and juſtifie their Obedience to a King, who is placed in the Throne, Subjects are in a very ill caſe, who have no Authority to Judge, and no Power to Reſiſt: There are numerous caſes, wherein Subjects muſt acquieſce in the determinations of a legal Authority againſt what they think a legal Right: the reaſon and neceſſities of Government require it; and the Law, which gives a Right, will not allow us to vindicate our Right againſt a legal Authority. And therefore it does not follow merely from the Law of Succeſſion, that Subjects are bound *in Conſcience* to own no King, who is not the rightful Heir: And Duty and Conſcience in Obedience to Laws, is the only thing I am now inquiring after.

3. Tho I have not skill enough in Law, to know certainly what our Conſtitution allows in this point; yet it is the declared Judgment of ſome of the beſt Lawyers of former days, and ſo far as I can learn, the moſt common and prevailing Opinion ſtill, That our Laws do allow and require Allegiance to a King *de facto*, who is in Poſſeſſion of the Throne without a legal Right. And this they have done in the Reigns of legal and rightful Kings, as my Lord *Ch. Juſt. Coke*, the Judges in *Bagget*'s Caſe, my Lord *Ch. Juſt. Hales*, my Lord *Ch. Juſt. Bridgman* in the Tryal of the Regicides, in Anſwer to *Cook*'s Plea; who allowed the Law, but would not allow his Caſe to be within the purview of it. Now when the Diſpute is meerly about the Senſe of the Law, to judge rightly of which, requires ſome skill in Law, and a great deal more than I can pretend to; Which is the ſafeſt way to reſolve my Conſcience? Whether to adhere to my own Judgment, againſt the Judgments and Opinions of the ableſt Judges and Lawyers? or to rely on their Judgments (when learned Men generally agree in it) tho I do not comprehend the Reaſons of their Opinions?

In moral and natural Duties, which every Man may and muſt underſtand for himſelf, the Caſe is different; we muſt not there rely wholly upon Authority, eſpecially not againſt the Reaſon and Sentiments of our own Minds, tho Authority is in that Caſe of great uſe to over-rule meer Doubts and Scruples; but when the Caſe of Conſcience is a meer Point of Law, and we conclude

clude that to be our Duty which the Law determines, I am of Opinion, That Judges and learned Lawyers, especially when they have determined the matter without any Byas on them, or any prospect of our present Affairs, are the best *Casuists*, because they understand the Law best.

That we must obey and submit to our Prince, is a Duty which the Laws of God and Nature enjoyn; and we must not suffer any Man, be he Lawyer or Divine, to persuade us, that this is not our Duty: but what Prince we must obey, and to what particular Prince we must pay our Allegiance, the Law of God does not tell us, but this we must learn from the Laws of the Land. Here is a Question then arises, Whether the Subjects of *England* (when such a Case happens) must pay their Allegiance to the King *de jure*, who is dispossessed of his Throne, or to the King *de facto*, who is possessed of it without a legal Right? Now will these Men, who ground their Dissent upon the Laws of the Land, abide by the Decision of the Law? If they will not, Why do they insist on it, and urge it, as an unanswerable Objection? If they will, Who must judge of the Sense of the Law, and from whom must they learn it? for every one is not a competent Judge of this matter, tho he thinks he very well understands the Grammatical Sense and Construction of Words. And is it not most reasonable to think that to be the Sense of the Law, which learned Judges and Lawyers have agreed is the Sense of it? Is it not reasonable to take that to be the Sense of the Law, which has been the Sense of *Westminster-Hall*, and is like to be so again, if we think fit to try it?

I do not think it so dangerous to mistake in a human Law, as in natural or divine Laws; our Obligation to obey human Laws, is that Obedience which is due to Government, and then whatever we apprehend the Sense of the Law to be, we must not pretend to obey human Laws in our Sense, in opposition to Government: if we mistake with Authority, and obey the Law in that Sense which has been allowed in all Reigns, even of the most rightful Kings, we are safe in Conscience: And he who will advance another Sense of the Law, upon confidence of his own private Judgment, and venture his Estate and Fortune, his Liberty and Life on it, I think does neither wisely for himself, nor pays that deference he pretends to Government.

But here is an Oath concerned, and danger of Perjury, if having ſworn Allegiance to K. *James* while he is living, we ſwear away our Allegiance from him to K. *William* and Q. *Mary.*: but I ſuppoſe legal Oaths muſt be expounded by the Laws; and if by the Law of the Land Allegiance to K. *James* ceaſes, as being out of Poſſeſſion, our Oath can oblige us no longer; and if by the Law of the Land we owe Allegiance to K. *William* and Q. *Mary* as in Poſſeſſion of the Throne, then we may, and ought, to ſwear Allegiance to them: and this being a point of Law, muſt be decided by the proper Judges of it; for, if we keep an Oath when the Law does not allow it, and refuſe an Oath when the Law requires it, we tranſgreſs the Law. And this is not the only legal Oath, wherein Men govern themſelves by Judgments of Law, I am ſure as much, and I think more plainly againſt the expreſs Words of the Law, than can be pretended in the Oath of Allegiance; I mean the Oath of *Simony*, in which Men ſwear in as general Words as can be thought of, againſt all Bargains or Contracts, either directly or indirectly, for the obtaining ſuch a Living, or Spiritual Preferment; and yet make no Scruple of any ſuch Contracts, as are not adjudged *Simony* in *Weſtminſter-Hall*, tho they ſeem included in thoſe general Words. And if we will not allow it to be a ſafe Rule of Conſcience to obey Laws, and to take legal Oaths, in that Senſe which Courts of Juſtice, or learned Judges and Lawyers give of them, tho we muſt abide by their Judgments when it comes to be tryed whether we have broken or kept theſe Laws; Subjects are in an ill Condition both with reſpect to their Conſciences, their Lives, and Eſtates.

This might very well ſerve in Anſwer to the Argument from Law; for it is acknowledged, That there is great Authority for our Allegiance to a King *de facto*, when the King *de jure* is diſpoſſeſſed: but I have a mind to conſider this matter a little farther.

The Caſe of Allegiance, &c.

There is a *Book* lately Printed, Entituled, *The Caſe of Allegiance to a King in Poſſeſſion:* The learned *Author* has taken a great deal of pains in conſidering our Statutes and Hiſtories; and his Deſign is to prove, that my *L. Ch. Juſt. Coke* was miſtaken in his Opinion, That the Statute of *Treaſon* 25 *Ed.* 3. c. 2. *is to be underſtood of a King in Poſſeſſion of the Crown and Kingdom; for if there be a King regnant in Poſſeſſion, tho he be* Rex de facto, & non de jure, *yet he is* Seignior le Roy *within the Purveiw of this Statute; and the other that hath Right, and is out of Poſſeſſion, is not within*

within the Act. It is too long a *Book* to be particularly anſwered here; but as I apprehend, his Fault is, that he does not reaſon right upon matters of Fact; and ſome of his fundamental Miſtakes may be anſwered in a ſmall compaſs: and I chooſe the rather to do it, becauſe they are the very ſame Miſtakes that impoſed upon me for ſome time.

P. 6. Our Author thinks, *It would ſeem a very odd Queſtion for any to ask, touching the Laws that are made in any ſettled Monarchy for the Defence of the King's Perſon, Crown, and Dignity, who is meant by the King in thoſe Laws? the lawful and rightful King of that Realm, or any one that gets into the Poſſeſſion of the Throne, tho he be not a rightful King, but a Uſurper?*

Now this ſeems to me no odd Queſtion at all; for when the Law only mentions the King, and the Law-makers certainly knew that Kings without a legal Right do often aſcend the Throne; if they had intended to except all ſuch Uſurpers, they ſhould have ſaid ſo: for a King *de facto*, as the Ch. Juſt. aſſerts, is *Seignior le Roy*, or King; and there is no other King but he: for King ſignifies that Perſon who has the Supreme Government in the Nation; A King *de facto* is he who actually has the Government; that is, who is actually King; a King *de jure*, as oppoſed to a King *de facto*, is he who of Right ſhould have the Government, but has it not; that is, who of Right ſhould be King, but is not: and the Statute of Treaſon tells us what is Treaſon againſt him who is King, not againſt him who ſhould be, but is not King. But he proves, this Statute can intend only a King *de jure*,

P. 8. becauſe it makes it Treaſon to kill the King's eldeſt Son, to violate the Queen, or the Prince's Wife, or the King's eldeſt Daughter, all which, is to ſecure the Succeſſion to the Crown, and therefore cannot concern an Uſurper, who has no Right himſelf, and therefore his Heirs have no Right to Succeſſion; and we cannot ſuppoſe that the Law ſhould take care to ſecure the Succeſſion to the Poſterity of an Uſurper.

But this is no Argument to me; for the Law looks upon the Crown as Hereditary, and the Change of the Perſon or Royal Family, does not make the Crown ceaſe to be Hereditary; and therefore whoever has Poſſeſſion of the Crown, has an hereditary Crown, and leaves it to his Heirs, as long as they can keep it; as is plain from the Example of the three *Henries*, who ſucceeded each other. And this is Reaſon enough, why the Law ſhould make

make no difference upon this Account between a King *de facto* & *de jure*.

But, *my Lord Ch. Juſt.* Coke *does not found his Gloſs upon the fundamental Conſtitution of the Realm*, tho methinks he ſhould have underſtood it as well as our Author. But what is this fundamental Conſtitution? Why, *The Regal Authority, and the Allegiance of the Subjects, is appropriated to the lawful and rightful King.* But where does he find this fundamental Conſtitution? The fundamental Conſtitution, I take to be an hereditary Monarchy; not that the Monarchy ſhould continue always in ſuch a Family; for that may fail, or may be changed by Conqueſts or Uſurpations, as has often been, and the Conſtitution continue. The moſt that can be ſaid is, that when any particular Family, by the Providence of God, and the Conſent and Submiſſion of the People, is placed in the Throne, of Right the Crown ought to deſcend to the Heir of that Family: but ſuppoſe it does not, muſt we pay Allegiance to no other Perſon, tho poſſeſſed of the Throne? Let him ſhew me that fundamental Conſtitution, for a meer Hereditary Monarchy does not prove it; and according to the Judgment of the beſt Lawyers, the Laws of the Land require the contrary, that we muſt pay our Allegiance to him who is actually King, not to him who ought to have been King, but is not. And to think to confute this by pretending the fundamental Conſtitution of an Hereditary Monarchy, is to take that for granted which ought to have been proved.

The Queſtion is not, Whether the Monarchy be Hereditary, that is agreed; but whether in an Hereditary Monarchy we muſt pay Allegiance to no Prince who is not the legal Heir, tho poſſeſſed of the Throne; This the Lawyers deny, and produce Law for it, and if there be ſuch Laws, it is certain by Law we may pay Allegiance to a King in Poſſeſſion, notwithſtanding the fundamental Conſtitution of an Hereditary Monarchy; for the Law, which makes one, allows and commands the other; and than it is an Hereditary Monarchy with this reſerve; of paying Allegiance to the King in Poſſeſſion, when the legal Heir cannot obtain his right.

And this I take to be a very wiſe Conſtitution, which ſecures the King's Right, as far as Law can do it; but if the King ſhould be deprived of his Right (which the Experience of all Ages proves he may be) does not think fit, that the Government

ſhould ſink with him, and therefore makes proviſion for the ſecurity of the Government and of Subjects under the Regnant Prince, which the Reaſons and Neceſſities of Government require and juſtifie, though there had been no Law for it.

P. 9. 3. He ſays, *my Lord* Coke's *Gloſs is contrary to the conſtant Practice and Cuſtom of the Realm. For if Treaſon by the Cuſtom and Practice of the Realm lay only againſt a King in Poſſeſſion of the Crown and Kingdom, then*

1. *Thoſe only would be attainted by our Kings and Parliaments, who acted againſt a King in Poſſeſſion.*

2. And *then certainly a King in Poſſeſſion himſelf, cannot be guilty of Treaſon for what he does while in Poſſeſſion againſt a King out of Poſſeſſion.* And yet when a King *de jure* has regained his Throne, the King *de facto* and his Adherents have been attainted by Parliament for Uſurping the Throne, and oppoſing the right of the King *de jure.*

In anſwer to this, I obſerve, 1. That this does not prove that any one Act which is Treaſon againſt a King *de jure*, is not Treaſon when committed againſt a King *de facto*; now that is enough to prove, that Allegiance is by Law due to a King *de facto*, if Treaſon may be committed againſt him: for no Treaſon can be committed, where no Allegiance is due.

This is confeſſed, that all ſuch Acts, as are Treaſon againſt a King *de jure*, are Treaſon when committed againſt a King *de facto*, but not, ſay they, becauſe Allegiance is due to him, but becauſe they are againſt the Order of Government, and therefore are Treaſon by the preſumed conſent of the King *de jure*, I anſwer,

That ſuch Acts are againſt the Order of Government, and very deſtructive to it, is the only Reaſon why they are made Treaſon by Law; and this is as good a Reaſon why the Law ſhould make them Treaſon againſt a King *de facto*, as againſt a King *de jure*; for they are equally againſt the Order of Government, and deſtructive to it, whoever be King; and that is the only Reaſon why they are made Treaſon at all.

The preſumed Conſent of the King *de jure* is a very pretty notion, and ſerves a great many good turns; it makes Laws, and it makes Treaſon, and gives Authority to the inauthoritative Acts of a King *de facto*: that is to ſay (or they ſay nothing) that the preſumed Conſent of a King *de jure*, inveſts the King *de facto* with

with his Authority; for if he have no Authority of his own, unleſs the preſumed Conſent of the King *de jure* give him Authority, it cannot make any treaſonable Act done againſt him to be Treaſon; for it cannot alter the nature of things, nor make me guilty of Treaſon againſt any Perſon, to whom I owe no Duty and Allegiance. And if the preſumed Conſent of the King *de jure* inveſts the King *de facto* with his Authority, it muſt transfer the Allegiance of Subjects too; and then Subjects are as ſafe in Conſcience, as if the King *de jure* were on the Throne; for it ſeems there is his Authority and Conſent, though not his Perſon.

But this is all meer trifling; the King *de facto* has Authority, or none of his Acts of Government can have any; for that which is done by a Perſon, who has no Authority can have none: whence then has he this Authority, ſince he has no legal Right to the Throne? Not from the preſumed Conſent of the King *de jure*, which is great non-ſenſe to ſuppoſe, but from the Poſſeſſion of the Throne, to which the Law it ſelf, as well as the Principles of Reaſon and Religion, have annexed the Authority of Government.

2. As for the Attainders of Kings *de facto* and their Adherents in Parliament, that does not prove that Subjects cannot be guilty of Treaſon againſt a King in Poſſeſſion, nor that the Statute of Treaſon does not relate to a King in Poſſeſſion: for the Statute of Treaſon does not relate to the diſputes of Princes, but to the Order of Government; and therefore may relate to a King in Poſſeſſion, though the King himſelf, if he be an Uſurper, when ever the rightful King regains the Poſſeſſion of his Throne; if he were a Subject before, may be attainted of Treaſon for his Uſurpation.

And theſe things are as conſiſtent, as it is to take care of the Government, when ſuch Revolutions happen, and yet to diſcourage all illegal Uſurpations.

And yet the truth is, there is no Argument to be drawn from this; for whenever there is a Competition for the Crown, there is no doubt but he that prevails, be he King *de facto* or *de jure*, will attaint his Rival and all his Adherents: Thus it was between *Edward* IV. and *Henry* VI. between *Richard* III. and *Hen.* VII. who attainted one another; and this is no proof, what the Law of the Land is, but it proves, that Parliaments have always favored the King in Poſſeſſion.

3. He argues, that *if Treaſon lay only againſt the King in Poſſeſſion, whether* de jure *or no, the Subjects muſt look upon themſelves as*

obliged upon pain of High-Treason not to admit of any claim of the King de jure — and yet *Richard* Duke of *York, put in his claim to the Crown in the Parliament* 39 *H.* 6. and it was received and allowed by them.

But I would fain know what kind of Treason this is for a Parliament, to whom, or to none upon Earth, appeals in such Cases can be made, to receive a Claim to the Crown? a little improvement of the Argument would make it High-Treason, for any of the Courts of *Westminster-Hall* to receive a Complaint, and try and judge a Cause against the King.

If he had said, that the Law had allowed Subjects to fight for the King *de jure* against the King in Possession, this had proved his Point, that Treason does not lie only against a King in Possession; but there is no such Law as this to be found: It is Treason to fight against the King, and that, says my Lord *Coke*, is the King in Possession, without making any reserve for the defence or re-establishment of the King *de jure*, when out of Possession: For it seems the Wisdom of the Nation has not yet thought fit to make a Law to justifie Civil Wars when such a Revolution happens, with an orderly and national Submission.

An appeal to Parliament is a proper way to declare to whom of right the Crown belongs, when there is a Competition; but though such Usurpations very often occasion Civil Wars, yet the necessity of Government requires, that the Law should always be on the side of the King in Possession, and then it can never justifie any Man in fighting against him.

P. 12, 13. &c. 4. His next Argument is, that *if Treason lay only against a King in Possession, then the Law in other regards would look upon the King in Possession, as having the dignity and honor of a King*, whereas he observes 1. That *the Law, where it considers them as Usurpers, does hardly vouchsafe that the name of King*; for in the Statute 1 *Ed.* IV. *Henry* IV. is called *Henry* Earl of *Derby*, and the *Henries* are call'd *pretensed Kings, and Kings indeed, and not of right*: But he has answered this himself, that our Law allows them the name of Kings, *with regard to their having the Execution of the Kingly Office*; that is, our Laws do not allow those to be legal Kings who have no legal Title, but yet allow them to be Kings as exercising the Regal Power, and what would he have more unless our Laws should speak non-sense? And yet he should remember that *Ed.* IV. after this had as hard words from *H.* VI. Parliament as the *Henries* had from *Edward* the Fourth's.

2. He

2. He obſerves, that *the Law does not look upon the Acts of Government done by a King in Poſſeſſion, if an Uſurper, as valid and authoritative in themſelves*, becauſe they have been confirmed by Subſequent Kings; and yet he himſelf confeſſes, that they had P. 14. not been invalid without ſuch a Confirmation, but *not upon account of any Authority in theſe Kings but upon account of the neceſſity of Government, and the preſumed Conſent of the Kings* de jure *excluded from their right.* But if theſe Kings have no Authority, I know not how their Acts ſhould be authoritative; he ought to have ſaid, that the neceſſity of Government gives Authority to ſuch Kings and their Acts without a legal Title, and that had been Senſe; but this and the preſumed Conſent has been conſidered already.

But he has made an untoward Objection againſt this himſelf, that *the Acts of Parliament made by* Hen. IV, V, VI, *were not confirmed by the Parliament* 1 *Ed.* IV. and yet are good Laws ſtill; and his anſwer to it is very lame, that ſome of their Acts of Parliament are confirmed there, *viz. An Act for Founding any Abbies or Religious Houſes, &c.* but this ſeems to be *abundans cautela*; for the ſame Reaſon, that the Univerſities and other Religious Foundations renew their Charters in ſeveral Princes Reigns, though confirmed by Act of Parliament; which does not ſuppoſe, that they thought their former Charters invalid, but for their greater ſecurity deſire the Confirmation of the preſent Powers: but when all publick Acts made by Parliaments called by Kings *de facto* are receiv'd and own'd for good Laws without any new Confirmation, that is proof enough, that they thought the Authority ſufficient, whereby they were made, though the King had not a legal Right.

But yet let me add, that had it been the conſtant and univerſal Practice for the Kings *de jure*, when they return'd to their Crowns, to confirm all the judicial Acts, Grants, Statutes, *&c.* of the Kings *de facto*, this had been evidence enough, that the Neceſſities of Government require, that all the Acts of Kings *de facto* ſhould be valid; for that is the only Reaſon why they are confirmed by P. 16. a legal Authority; becauſe it is neceſſary they ſhould be valid, and yet convenient for the diſcouragement of ſuch Uſurpations, that they ſhould not be thought valid, without a legal Confirmation, but what the neceſſity of Government makes valid, is valid in it ſelf without any new Confirmation; though the Reaſons of State may make ſuch a Confirmation uſeful.

The next thing he undertakes to anſwer is *Baggot's* Caſe, concerning the validity of his Patent of Naturalization granted by *Hen.* VI.

Hen. VI. who was only King *de facto*; though it were not confirmed by the Statute 1 *Ed.* IV. This he branches out into several Particulars, and says a great deal about it, but nothing new: He always takes Sanctuary in his old Salvoes of the necessity of the Government and the presumed Consent of the King *de jure*, which have been sufficiently considered already.

All that I shall conclude from this case (which I must take as he has represented it) is this; that the necessity of Government (for both the Judges and Council understood things better than to urge the *presumed consent of the King de jure*,) gives Authority to all those Acts of a King *de facto*, which are for the Administration of Justice, and belong to Sovereign Powers; and then by the same reason, they must justifie Subjects in paying Allegiance to such Kings; for this is necessary to Government. Our Author will allow this in all cases, which are not against the Interest of the dispossessed Prince; but this is to allow nothing, for the very Possession of the Throne, and every Act of Authority the King *de facto* does, is against the Interest of the King *de jure*: But he seems all along to mistake *Gifts and Grants, to the Diminution of the Crown* (which they would not allow to stand good, when the King *de jure* returned) for all Acts against the Personal Right and Interest of the King *de jure*: But the *Diminution of the Crown*, and *the Right of the Person*, are very different things, as he will easily see, when he considers it again,

Pag. 26. As for the Statute 11. H. 7. which indemnifies Subjects in Fighting for the King in possession; he disputes very largely about it, but I can at present make only some short Remarks on what he says.

1. He observes, that it is only said in the Preamble, *not enacted in the Body of the Statute, that the Subjects shall be obliged to pay Allegiance to the King for the time being*; but whether a Preamble be Law or no, it is an Authoritative Declaration of the Law, and that is a sufficient rule for Subjects; and if 25. *Ed.* 3. concerns Kings in Possession, it is enacted there.

Pag. 27. 2. He will not allow this Preamble to be *a direct and positive Declaration* of the Law; because *the King* only says, *that he calls to remembrance his Subjects duty of Allegiance*, &c. But if the King and Parliament declare, that they remember, this is the duty of Allegiance, does not that declare their Opinion, that it is a duty

as

as effectually as can be done in any other form of words; nay ſomewhat more, for what they remember, they declare was ſo before, and not made ſo now, merely by their Declaration; and what the Parliament ſuppoſes and takes for granted, it more effectually declares.

3dly. He ſays, *what is laid down in the Preamble, is expreſly falſe —— that it is not reaſonable, but againſt all Laws, Reaſon, and good Conſcience, that the Subjects going with their Sovereign Lord to Wars, any thing ſhould loſe or forfeit for doing this their true Duty and Service of Allegiance*; Now if this be falſe, I know not what can be true; is the contrary to it true? that it is agreeable *to Law, Reaſon, and good Conſcience*, that Subjects ſhould loſe or forfeit any thing for Fighting for their King? But *this is meant of Fighting for an Uſurper againſt their lawful King*. And yet here is not one word of *Uſurper*, or *Lawful King*, but our *Sovereign Lord*, whom the Law requires us to own for our Sovereign; and it is againſt Law, Reaſon, and good Conſcience, that Subjects ſhould ſuffer for Fighting for any Prince, whatever his Title be, whom the Law owns for Sovereign at that time: That Kings and Parliaments as he urges, have attainted Subjects upon ſuch accounts, does not prove, that it was not againſt Law and Reaſon and good Conſcience to do ſo; and it ſeems *H.* 7. who had done this himſelf, was now convinced of it, and took care to provide it ſhould be ſo no more: I am ſure my Lord *Bacon* ſays this Law was rather *juſt than legal*; and therefore owned the Reaſon and good Conſcience of it, though he demurred about the legality. Pag. 28.

But our Author will be ſo liberal, as to grant, that all this *were the Body of the Statute and a direct Law*; then it is plain, that Subjects might by Law Fight for the King in Poſſeſſion, and their Allegiance would oblige them to it. No, he ſays, *it will remain to be conſidered, whether the Statute can be looked upon as valid and obligatory*; and he thinks it is not. Pag. 29.

1. *Becauſe it was made by an Uſurper*, and by an Uſurpers Parliament. This is a bold ſtroke to call *Hen.* VII. an Uſurper, who had ſo many Titles, and no Title ſet up againſt him; and to queſtion the Authority of a Parliament, called by the Writ of a King in Poſſeſſion; and to deny the validity of Acts of Parliament made by Uſurpers, when our Statute Books are full of them, and they are owned good and valid Laws.

So

Pag 30. So that I will not diſpute with him, whether *ſubſequent lawful Kings* gave their conſent to this Law or not, it is ſufficient, they have not repealed it; but what he urges, *that it has been in effect declared null and void,* I doubt will not paſs among our Lawyers to be equivalent to a repeal; for I never yet heard, that an Act of Parliament could be repealed by conſequence; but let us hear, how *ſubſequent Kings and Parliaments* have in effect declared it null and void; and he has thought of two ways for this.

1. By their proceeding expreſly contrary to the letter of this Law; *viz.* in the Attainder of the Duke of *Northumberland* in Queen *Mary*'s time, who was ſent *with an Army againſt* Q. Mary *by order of Council and a Warrant under the Great Seal in behalf of Queen* Jane.

2. *Their laying a contrary obligation on the Conſciences of Subjects*; which he proves by the Acts concerning the Succeſſion made by *Hen.* VIII. and the Oath of Allegiance. Now I am apt to think he is miſtaken in this matter, becauſe after all this was done, my Lord *Coke,* and other great Judges and Lawyers, have taken this for a very good Law, and therefore did not think, that it was in effect declared null and void. As for the condemnation of the Duke of *Northumberland,* it was either reconcileable with this Law, or it was not; if it were, I ſuppoſe it did not *in effect declare it null and void*; if it were not, it was a Sentence againſt Law; and I never heard, that an Illegal Sentence did either Repeal a Law, or declare it void. As for the Acts of Succeſſion made by *Hen.* VIII. and the Oath of Allegiance, tho ſome Men, if they pleaſe, may expound them ſo as to contradict the Statute of 11 *Hen.* VII. yet they being ſubſequent Laws, made without repealing that former Statute, it ſeems moſt reaſonable to me, that their Senſe and Interpretation ſhould be limited by that former unrepealed Statute; for if thoſe Kings and Parliaments had intended to lay any obligation upon Subjects, contrary to any thing enacted by that Law, they would have repealed it; for a former and unrepealed Law muſt limit the Interpretation of ſubſequent Laws, unleſs we will allow the Laws to contradict each other.

This is all in our Author, that ſtrictly concerns Law; for in what follows he proceeds to diſpute againſt the Law, from Principles of Reaſon and Religion, and to prove, *that it is to be looked upon in it ſelf null and void in reſpect of the matter of it,* tho it were granted, *that this Statute was made by a Legal Authority, and*

Pag. 36.

has

has ſtood ever ſince unrepealed. Now this is what I at firſt ſuſpected, that they would not ſtand to the determination of the Law in this matter, and then why do they trouble themſelves and the World about Law, if nothing ſhall paſs for a good Law, which they don't like?

If our Author carefully conſider what I have already diſcourſed, I hope he will find a ſatisfactory anſwer to all his following objections; or at leaſt ſuch Principles, as will enable a Man of a great deal leſs skill than he has to anſwer them all.

But tho I am in great haſt to conclude, I ſhall ſtop a little to examine the two Reaſons he gives to prove that Statute 11. *Hen.* VII. which indemnifies Subjects for Fighting for a King in Poſſeſſion to be a void Law with reſpect to the Matter, though the Authority that made it be allowed good, *viz. For it either diveſts the Lawful King of his Right to the Crown, and gives it to the Uſurper, or it ſtill reſerves his Right to him, but yet notwithſtanding, orders the Subjects to obey and ſtand by the King in Poſſeſſion:* Now a very ſhort anſwer will ſerve for this. For, Pag. 37.

1. The Law does not deny his Legal Right to the Crown, but yet may reaſonably deny him to be King, when he is out of Poſſeſſion. For a King is he, who actually adminiſters the Government with a Regal Authority; not he, who has right to do it, but is kept from his Right, ſuch a Prince may retain the Title of King, but he has nothing elſe.

2. When ſuch a Caſe happens, it is not ſo unjuſt or unreaſonable, as to make it a void Law, *to order Subjects to obey and ſtand by the King in Poſſeſſion:* For the King has no Right but by Law, and then the Law may determine how far his Right ſhall extend; and if the King himſelf by the advice, conſent, and authority of the Eſtates of the Realm (conſidering how often ſuch caſes happen, that a Prince who has no legal Right gets Poſſeſſion of the Throne, and what deſolations the diſputes of Princes occaſion, and how impoſſible it is for Subjects to avoid Fighting for the King in Poſſeſſion ſhould think fit, for the ſecurity of the Government and Publick Peace, to bind the Allegiance of Subjects to the Poſſeſſion of the Throne, what iniquity is there in this Law? why may not a legal Right be bounded and limited by Laws? Why may not the Supreme Authority of the Nation make the beſt Proviſion they can to preſerve the Government, to ſecure the Lives and Fortunes, and to eaſe the Con-

sciences of Subjects, in such revolutions as no Right and no Laws can prevent? Since humane Governments will not always proceed in regular Methods, provisional Laws, which are exceptions from the Constitution, but necessary in such junctures, seem to me to be highly reasonable.

Thus I have fairly represented what my thoughts are about this matter, and have taken all due care, neither to impose upon my self nor others by some little fallacies, nor to provoke any sort of Men with hard words: If what I have said, do not make other Men of my mind; yet I hope it may satisfie them, that I have something to say for my self, and that it is possible, I may be an honest Man still, tho they may think me mistaken.

THE END.

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